



CITY COUNCIL
Regular Meeting – April 13, 2015 6:00 p.m.
Council Chambers

1368 Research Park Dr
Beavercreek, Ohio

PRESENTATIONS

- ◆ 4th of July Donation Presentation, Nina Joshi , President, UES

PROCLAMATIONS

- ◆ National Public Safety Telecommunicators' Week

RECOGNITIONS

- ◆ Beavercreek High School Ambassador's

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE AND MOMENT OF SILENCE – Mayor Jarvis
- IV. APPROVAL OF AGENDA
- V. APPROVAL OF MINUTES
 - A. March 16, 2015 Work Session
 - B. March 23, 2015 Regular Meeting
- VI. PUBLIC HEARING - PC 15-4 Property Maintenance Code Updates
 - A. Staff Presentation
 - B. Public Input
 - C. Council Input
 - D. Ordinance 15-08 (First Reading)
- VII. ORDINANCES, RESOLUTIONS AND PUDS
 - A. Ordinance 15-04 PC 15-2 Rine Land Use Plan (Second Reading)
 - B. Ordinance 15-05 Z 15-1 Rine Rezoning (Second Reading)
 - C. Ordinance 15-06 Acceptance of Annexation (Second Reading)
- VIII. LIQUOR PERMITS
 - A. Vandalia Coffee DBA Winmans Chocolates and Coffees
- IX. DECISION ITEMS
 - A. Acceptance of City Manager's Recommendation for Public Administrative Services Director
- X. CITY MANAGER'S REPORT
- XI. MAYOR'S REPORT
- XII. COUNCIL TIME
- XIII. CITIZEN COMMENTS
- XIV. EXECUTIVE SESSION
- XV. ADJOURNMENT

BEAVERCREEK CITY COUNCIL
WORK SESSION, March 16, 2015, 5:00 p.m.

Mayor Jarvis called the meeting to order followed by roll call.

PRESENT: Council Member Giambrone, Council Member Litteral, Council Member Petrak, Council Member Upton, Council Member Whilding, Vice Mayor Wallace, Mayor Jarvis

ABSENT: None

ALSO IN ATTENDANCE: Randy Burkett, City Planner; Michael Cornell, City Manager; Dennis Evers, Chief of Police; Bill Kucera, Financial Administrative Services Director; Dianne Lampton, Clerk of Council; Steve McHugh, Legal Counsel; Jeff Moorman, City Engineer; Mike Thonnerieux, Interim Public Service Administrative Director

Council Member Litteral MOVED to excuse Council Member Upton, seconded by Council Member Giambrone. Motion PASSED by majority voice vote.

APPROVAL OF AGENDA

Council Member Litteral MOVED to approve the agenda, seconded by Vice Mayor Wallace. Motion PASSED by majority voice vote.

DISCUSSION ITEMS

Bicycle Friendly Community Feedback Report, Jerry Walling

Jerry Walling, Chair, Bikeway and Non-Motorized Transportation Advisory Committee
Mr. Walling explained the Beaver Creek has not yet reached Bicycle Friendly Community status at this time but steps were being made in the right direction.

Council Member Upton arrived at 5:07 p.m.

Mr. Walling reviewed the report from the committee that highlighted items that could be done with minimal expense to initiate enhancements, education and facilities within the community to promote bicycling in Beaver Creek.

Pedestrian Bridge Update

March 16, 2015

There was discussion regarding the name on the bridge. Mr. Moorman explained ODOT had final approval of the name since the bridge spans I-675. Option 2 of the conceptual signage options (Wright State University Way) was submitted to ODOT for a preliminary review. There was no response from ODOT at this time. There was discussion regarding who name should be on the bridge. ODOT does not want to see multiple names. They want it simple and not a distraction. There was discussion of have a plaque leading up to the bridge with all contributors' names. There was discussion regarding the maintenance of the bridge since ODOT will not be responsible since the bridge does not carry cars.

Bachman Property Ditch Erosion

Mr. Moorman reviewed his continued research regarding the erosion issues. He said the owner of the land at Park Overlook was agreeable to expanding the retention pond when it is built. He spoke of replacing a culvert under Vayview based on Mr. Beach's recommendation in his 2002 report and suggested it be put in the 2016 budget. He also said the nursing home maintenance person was removing the orifice plate that controls the flow from the pond. He explained the maintenance person had concerns of how he was going to mow the grass if there was water. It was explained the purpose of the plate and this should not be an issue going forward. It was discussed to get a copy of the report from the Bachman's and have a third party expert review. Council asked to follow up in a few months.

Property Maintenance Code Update

Mr. Funk reviewed the changes to the Property Maintenance Code and the reasons for those changes and updates. The public hearing for these changes would be coming forward to a Regular Council Meeting.

Vice Mayor Wallace left at 7:46 p.m.

INFORMATION ITEMS

Electric Aggregation

Mr. Cornell explained they were waiting on information regarding revenue sharing, the timetable and bid information from the County.

COUNCIL COMMITTEE/EVENT UPDATES

Council discussed events they had attended and anything thing they scheduled in the near future.

ADJOURNMENT

Council Member Litteral MOVED to adjourn the meeting at 7:00 p.m., seconded by Council Member Whilding. Motion PASSED by majority voice vote.

BEAVERCREEK CITY COUNCIL

WORK SESSION

March 16, 2015

ATTEST:

Brian Jarvis, Mayor

Dianne Lampton
Clerk of Council
Cmin031615Worksession

BEAVERCREEK CITY COUNCIL
REGULAR MEETING March 23, 2015 6:00 p.m.

PROCLAMATIONS
Volunteer Month

CALL TO ORDER

Mayor Jarvis called the meeting to order followed by roll call.

PRESENT: Council Member Giambrone, Council Member Litteral, Council Member Petrak, Council Member Upton, Council Member Whilding, Vice Mayor Wallace, Mayor Jarvis

ABSENT: None

ALSO IN ATTENDANCE: Michael Cornell, City Manager; Dennis Evers, Chief of Police; Bill Kucera, Financial Administrative Services Director; Dianne Lampton, Clerk of Council; Jeff McGrath, Planning and Zoning Director; Steve McHugh, Legal Counsel; Jeff Moorman, City Engineer; Nick Smith, Assistant City Engineer; Mike Thonnerieux, Interim Public Administrative Services Director; John Woltja, Public Service Supervisor

PLEDGE AND MOMENT OF SILENCE

Council Member Whilding led the pledge followed by a prayer.

APPROVAL OF AGENDA

Council Member Upton MOVED to approve the agenda, seconded by Council Member Litteral. Motion PASSED by majority voice vote.

APPROVAL OF MINUTES

Council Member Litteral MOVED to approve the minutes of the March 9, 2015 Regular Meeting Minutes, seconded by Council Member Whilding. Motion PASSED by majority voice vote.

PUBLIC HEARING – PC 15-2 Rine Land Use Plan

Clerk Lampton read this public hearing was for the purpose of addressing an amendment to the City of Beavercreek Land Use Plan for 5.01 acres of land contingent upon the annexation. The property is located on the north side of Dayton-Xenia Road approximately 600 feet west of the intersection of Orchard Lane and Dayton-Xenia Road further described as B03000200330021200 on the Greene County Property Tax Atlas.

March 23, 2015

Staff Input

Mr. McGrath explained this was an application to classify a previously unclassified property on the land use plan given the fact that it was in the unincorporated area of the township through the Type II 100% owner initiated annexation process as outlined by the Ohio State Revised Code. He said the applicant petitioned the City to annex the property. He said the negotiated pre-annexation agreement were approved by the City Council in 2012 and we're here this evening to fulfill that process that's been decided at the County level that the annexation will move forward with the City of Beavercreek. He said part of that process within the pre-annexation agreement was to classify this with a land use category that would be following the approval of the City of Beavercreek. He said that classification for the 5.01 acres of parcel is neighborhood community commercial office. Mr. McGrath reviewed the location of the property on a map. He said the classification would dictate the future use of the property. He said there was also a public hearing a classification for the zoning which would be I-1 Light Industrial which is the most compatible type of use for that is on the property. He said there were some restrictions in the size of the property which would dictate the future use of the property under the I-1 Light Industrial classification. He said this is where the land use plan would come into consideration should a use come into the property that wouldn't fit the I-1 should they want to sell or redevelop the site. He said it would go towards something that would be compatible with the neighborhood community commercial office. He said given the existing conditions they were considering upon the annexation request a follow-up application reading would be for a rezoning to an I-1 Light Industrial district. He said all the regulations that would manage the site from here on out will be within the established zoning code for the City of Beavercreek under an I-1 zoning district as well as flood plain consideration.

Public Input

There was no input from the public.

Council Input

Council Member Upton thanked staff and everybody involved. He said the pre-annexation agreement was signed October 22, 2012 so this has been a long time coming.

Ordinance 15-04

Council Member Upton MOVED to approve Ordinance 15-04 and move to the second and third reading, seconded by Council Member Giambrone. Motion PASSED by majority voice vote.

March 23, 2015

PUBLIC HEARING – Z 15-1 Rine Rezoning

Clerk Lampton read this public hearing was for the purpose to rezone 5.01 acres of land to I-1 Light Industrial District located on the north side of Dayton-Xenia Road approximately 600 feet west of the intersection of Orchard Lane and Dayton-Xenia Road further described as B03000200330021200 on the Greene County Property Tax Atlas.

Staff Presentation

No presentation

Public Input

There was no input from the public.

Council Input

There was no Council input.

Ordinance 15-05

Council Member Litteral MOVED to approve Ordinance 15-05 and move to the second and third reading, seconded by Council Member Petrak. Motion PASSED by majority voice vote.

ORDINANCES, RESOLUTIONS AND PUDS

Ordinance 15-6 Acceptance of Annexation (First Reading)

Clerk Lampton read an Ordinance accepting annexation on application of owners of 118.403 acres plus or minus of land in Beavercreek Township, Ohio.

Mr. McHugh said this was the first reading of the final process required under the Ohio Revised Code where Council, now having this annexation approved by the County Commissioners, is presented to the City for final approval and is up to the City to adopt legislation to approve it which is the purpose of this Ordinance.

Council Member Litteral MOVED to approve Ordinance 15-06 and move to the second and third reading, seconded by Council Member Upton. Motion PASSED by majority voice vote. Abstained - Whilding

Ordinance 15-7 Additional Appropriations (Single Reading)

Clerk Lampton read an Ordinance to approve supplemental appropriations, certify additional revenue and authorize an inter-fund transfer for the fiscal year beginning January 1, 2015 and ending December 31, 2015 and to amend Ordinance 14-32.

March 23, 2015

Mr. Kucera reviewed the three items on the supplemental appropriations. He explained the first item was for the police department who received two JAG Grants at the end of the year and were not included in the budget. He said the money needed to be appropriated for both receiving and spending. He said the golf course cart path between holes 5 and 6 were raveling very badly. He said this raveling is making the surface lose and causing carts to skid. He said to increase the skid resistance it was recommended to overlay with new asphalt. He said the trees surrounding that particular part of the path is keeping the surface wet all of the time which is contributing to the raveling factor. He said they would like to take down about 13 trees along that corridor also. He said it was also recommended to extend the fence and make it uniform with the other parts of the fence already existing. He said the project was estimated at \$30,000. He explained there was a four year cart path replacement program which has not been funded for the last two years. He said they feel this is an emergency and needs to be funded. Mr. Kucera explained they checked the budget and there was nothing else in the budget to reduce so the money has to come from a transfer from the general fund. He said the third item was a result of a grant application for a Senior Center van. He said they now needed to appropriate the grant money coming in.

Vice Mayor Wallace asked how long the asphalt lasted at holes 5 and 6. Mr. Smith said this was the original asphalt from 1996. Vice Mayor Wallace said she had a problem with taking down 13 trees. Mr. Thonnerieux explained this was part of the realignment of the path. Vice Mayor Wallace asked the location of these holes. Mr. Thonnerieux said it was not near homes and was adjacent to a wooded lot. He said it was between the current cart path and private property that was currently undeveloped. Vice Mayor Wallace said she had a real problem with taking down that many trees. Mayor Jarvis said these trees were contributing to the moisture staying on the cart path which impacted the raveling. Vice Mayor Wallace said it was put down in 1996 so it's 20 years old. Mr. Thonnerieux suggested to plant some other trees away from the asphalt area to replant and replenish the plant life but also allow the opportunity to create that straight path. Mr. Petrak said the issue was what was good for the golf course. He explained in the 1990s or early 2000s they had to take down a bunch of trees around one of the greens because they were preventing sunlight to get in and keep grass on the green. He said he understands the problem.

Council Member Giambrone asked if all 13 were because of the water or to straighten that path out. Mr. Thonnerieux said it was to straighten the path out. Council Member Giambrone said it wouldn't hurt to look to see if all 13 really needed to come out. There was discussion to thin the trees out. Mr. Cornell said

March 23, 2015

this was also an issue of safety. Council asked to look at the issue to see if some of the trees could be saved and still instill safety.

Council Member Giambrone MOVED to approve Ordinance 15-07, seconded by Council Member Petrak. Motion PASSED by a roll call vote of 7-0.

Resolution 15-09 Ohio Benefits Cooperative Agreement

Clerk Lampton read a Resolution authorizing the City Manager of Beavercreek, Ohio to enter into an agreement with the Ohio Benefits Cooperative, to provide medical, dental and life benefits for its employees.

Mr. Kucera explained in April 2014 the City decided to join the Ohio Benefits Cooperative (OBC) with a plan year starting September 1, 2014. He said at that time we received a 1.7% increase. He said the goal of the OBC is to increase the number of employees to smooth out the large fluctuations that were occurring with individual members themselves. He said there were 13 entities in the OBC which includes 1,100 members with 12,650 covered lives. He said the Affordable Care Act said for those entities with 99 or less members they would have to be community rated which affected about 8 out of the 13 members. He said because of this the OBC looked into being self insured. He explained if they are self insured they are out from the ACA requirements to go with the community rating. He said the community rating was between a 30 and 65% increase. He said the advantages of going self insured is the ACA fees are avoided and the excess of premiums paid over the actual paid medical expenses would remain within the pool rather than as profit to the provider. He explained as a self insured there was a requirement to procure administrative support and the purchase of stop loss and aggregate coverage. He said through an rfp they found Jefferson Health Plan who could utilize Anthem which most members were with. He said Jefferson Health Plan could be employed to do the administration and provide the stop loss and aggregate coverage. He said each member of the group had to decide if they wanted to stay with the group as a pool member or join the OBC as a co-op. He said they went through all the numbers and it was decided to stay with the pool. He said our claim history was not there on an annual basis. Mr. Kucera said the Resolution was to authorize the City Manager to sign a new agreement with the OBC. He said this is an initial 3 year commitment and thereafter you can start switching in and out. He said we have done the same thing with Miami Valley Risk Management as a charter member in the 80s. He said that program has worked out very well. He said in the 26 years, they have refunded \$13.7 million back to the members. He said they were hoping the same thing happens with the health insurance.

March 23, 2015

Mr. Cornell said as a recipient of Mr. Kucera's analysis his recommendation is correct and gives us some level of stability for the overall insurance costs.

Council Member Litteral asked if it was an automatic renewal after three years. Mr. Kucera replied no, it would be our choice. Council Member Litteral said we have an excellent wellness program for our employees so that should have some minor assistance with the cost. Mr. Kucera said we have a very good program and the OBC got a 4% credit for hitting their 50% goal. He said the group's priority is to make that standard higher.

Vice Mayor Wallace MOVED to approve Resolution 15-09, seconded by Council Member Upton. Motion PASSED by majority voice vote.

Resolution 15-10 Mercer Group Study Agreement

Clerk Lampton read a Resolution authorizing the City Manager to enter into an agreement with the Mercer Group, Inc. for the purpose of performing a fire service analysis.

Mr. McHugh said the point of this Resolution is to conduct a fire service analysis to look into the cost of the fire service and the impact on the city, the citizens and a number of other factors including financial impact.

Mayor Jarvis read a statement: "The City of Beavercreek comprises the majority of the land area of Beavercreek Township, while the Township includes 100% of the City. The boundary of the Township includes all of the City. Because of this the Township collects real estate taxes from the citizens of the City that are used to pay for public services operated by the Township. For several years citizens of the City have questioned their payment of real estate taxes to the Township. They ask "is this appropriate?" City Council by retaining the Mercer Group intends to have the use of those funds studied to determine if the current system is the best system for our citizens. If not, what are the alternatives? Could the City find efficiencies in another operational structure? If the current system is not the most efficient and effective model for providing service to the citizens, what are the alternatives? To answer City Council's questions the Mercer Group is charged with studying the fire department and the use of tax money paid to the Township by the citizens of the City. The question is: Is there equality or basic fairness for the citizens of the City? Citizens of the City will likely be requested in the next several years to vote on a tax levy for the Township fire department. Our citizens and this Council want to be well informed about the current City/Township structure and address ahead of any levy request issues with the current structure to assure the citizens of the city of Beavercreek their money is

March 23, 2015

being well spent. To reiterate, is the best interest of the citizens being met? Is the current division of tax revenue for the fire department effective and efficient? The citizens deserve to know the true cost of fire services as it relates to the City so they and City Council can ensure informed decisions going forward.”

Council Member Upton said since he has been on Council it has been a priority to look at every contract and every service that is provided to the City to find if there is a better and more responsible way of doing things. He said they are trying to determine the best services provided to the individual taxpayer.

Council Member Giambrone said she did not want to make anyone think that the services provided weren't good or great. She said this has nothing to do with the quality of the fire department. She said she has been asked several times about the difference between the township and the city and why aren't we one and why do we have two separate administrations. She said rather than continue to debate this, it would be good to have this information. She said other city's have done these studies and have been able to find real good compromises and ways to move forward.

Council Member Petrak said this is something that has been a long time coming.

Council Member Whilding MOVED to approve Resolution 15-10, seconded by Council Member Giambrone. Motion PASSED by majority voice vote.

Resolution 15-11 2015 Resurfacing Program Cooperation Agreement with County Engineers

Clerk Lampton read a Resolution authorizing the City Manager to enter into an agreement with the Greene County Engineer for the project known as the Collective Paving for 2015.

Mr. Smith said since 2003 the City has been with the County program for asphalt for our resurfacing. He said we do this to receive lower asphalt prices and pave more streets with our budget. He said with the program this year they potentially looking to resurface 11.53 linear miles of streets which is up from just over 6 miles last year. He said depending on the bids they may be able to add more streets to this.

Council Member asked how many miles we should be resurfacing each year. Mr. Smith said this would put us at 20-25 years. He said currently they are in a bubble because older streets were resurfaced between 1989 and 1996 plus there are a lot of new subdivisions that went in at that same time. He said it will take a

March 23, 2015

couple of years to get through that bubble to get back on a 20-25 year cycle. He said right now they need about 15 miles of street per year to get caught up.

Mayor Jarvis said the increased paving is a result of the levy being passed.

Council Member Giambrone asked if there were any requirements for private paving that adjoin the city streets with regards to how they are maintained. Mr. Moorman said he knew the street she was referring to and said there was a development planned for that area and were working with them to get that fixed.

Mr. Smith said there is a pothole reporting system on the engineering website page. He said the form will go directly to public service.

Council Member Wallace said this is another cooperative with Greene County to reduce costs.

Council Member Upton asked what other entities were involved with the asphalt purchase. Mr. Smith replied Greene County, Xenia, Fairborn, Beavercreek Township, Bellbrook and a couple other townships in the area.

Council Member Upton MOVED to approve Resolution 15-11, seconded by Vice Mayor Wallace. Motion PASSED by majority voice vote.

Resolution 15-12 Community Development Block Grant (CDBG) Application

Clerk Lampton read a Resolution submission of an application for FY 2015 Community Development Block Grant.

Mr. Thonnerieux said this was a request to participate in Greene County's Community Block Grant Program. He said the City of Beavercreek has been fortunate to participate in this program in the past and look forward to participating in it again this year. He said they were requesting authorization to allow the City to enter into this agreement authorizing the City Manager to apply for grant funds for Shoup Park. He said in 2016 there is a program to replace some of the play equipment and structure at Shoup Park and enhance some of the walkways and access ways to the park to help not only those children with disabilities but also the caregivers to be able to play with their able bodied children or grand children.

Council Member Litteral asked what the match of the grant was. Mr. Thonnerieux said there was no requirement for matching but they were looking for an 80/20 so they could score a little bit better. He said they were looking for

March 23, 2015

\$45,000 in total project costs with \$9,000 as the local match and the rest coming from CDBG funds. He said it is a competitive process so they try to score a little bit higher by putting some of our local dollars in as well.

Council Member Upton asked if there was a reason we only chose one project. Mr. Thonnerieux said there was no reason. He said they have prioritized. He said last year they did curb accesses and in other years they have done the lighting project at the Senior Center. He said there is a limited pot of money and they only take four projects total across the entire county. Council Member Upton asked how successful have we been in the past in getting these grants. Mr. Thonnerieux said pretty successful. He said last year and prior to that they got curb cuts, lighting phase 2 and lighting phase 1 for the Senior Center and they've installed playgrounds and more handicapped accessible equipment that exceeds the ADA requirements and other curb cut projects around town.

Council Member Petrak MOVED to approve Resolution 15-12, seconded by Council Member Whilding. Motion PASSED by majority voice vote.

Resolution 15-14 Salt Purchase

Clerk Lampton read a Resolution authorizing participation in ODOT Cooperative Purchasing Program.

Mr. Thonnerieux explained this was a Resolution to authorize the City Manager to use cooperative bidding through the Ohio Department of Transportation. He said this afford the City the opportunity to participate in bids with the Department of Transportation for salt. He said traditionally we have participated in the South West Ohio Partnership for Government (SWOP4G) and anticipate doing this again this year. He said due to the salt shortage they are looking for ways to diversify the portfolio and make sure we have multiple asks out there in different capacities. He said they trying to secure salt for the community. He said ODOT has already bid out for their spring fill and they have received no bids. He said this is an indicator to anticipate there will be another challenge again this year.

Council Member Petrak commented that three months ago there was a tremendous increase in the cost of about 40% for salt for their water softener.

Mayor Jarvis hoped this attempt would be successful.

Council Member Upton MOVED to approve Resolution 15-14, seconded by Council Member Whilding. Motion PASSED by majority voice vote.

March 23, 2015

LIQUOR PERMITS

KSI Investments Inc. dba Americas Taco Shop and Great Steak and Potato (New)

Chief Evers said the Ohio Division of Liquor Control sent police notification referencing a new D5 liquor permit for KSI Investments Inc., DBA Americas Taco Shop and Great Steak and Potato located at 4428 Glengarry Drive, Beavercreek, Ohio 45440. He said the records checks required by the Ohio Department of Commerce – Division of Liquor Control were conducted on the business officer/shareholder for this application. He said staff is recommending this application request move forward with no comment.

Council Member Litteral MOVED to accept without comment, seconded by Council Member Giambrone. Motion PASSED by majority voice vote.

DECISION ITEMS

Appointment to Environmental Advisory Board

Clerk Lampton said she had received an application for the Environmental Advisory Board who had been on the board for the past term and wished to be appointed back to this board.

Council Member Giambrone MOVED to open nominations for the Environmental Advisory Board, seconded by Council Member Whilding. Motion PASSED by majority voice vote.

Council Member nominated Stephen Blatt.

Council Member Upton MOVED to close nominations for the Environmental Advisory Board, seconded by Council Member Giambrone.

Council Member MOVED to appoint Stephen Blatt to the Environmental Advisory Board for the term of March 1, 2014 – February 28, 2017, seconded by Council Member Whilding. Motion PASSED by majority voice vote.

CITY MANAGER'S REPORT

Mr. Cornell said there were a significant number of infrastructure projects occurring around the city this spring, summer and fall.

Mr. Moorman summarized the three projects. Those projects included the National Road Widening Project which is a multi-jurisdictional project between Beavercreek, Bath Township, and WPAFB. The second project is the North Fairfield Road Widening Project between Jonathan Drive and Shakertown Road.

March 23, 2015

He explained the details of the project. The third project is North Fairfield Road Resurfacing Project between North Drive and Beaver Vu Drive.

Mr. Cornell asked for patience during the course of these infrastructure efforts. He said when it is all done it will be pretty impressive.

Mr. Moorman said there will be detour signs for the road closings effecting the construction project areas. He said the construction project on North Fairfield Road over I-675 is scheduled for March 29th and to expect delays in that area for the next four months.

Council Member Giambrone asked the members of the media in attendance to please communicate this information.

Vice Mayor Wallace confirmed this information was available on the website and social media. She asked if the neighborhoods effected had been notified for the lane closures. Mr. Moorman said the contractor has to provide a door hanger for each house along the project of the details of the project.

Mayor Jarvis asked the status of the pedestrian bridge. Mr. Moorman said the work was shut down during the winter. He said work has been started back up with a completion date of May 31st.

Vice Mayor Wallace said the Miami Valley Military Affairs will be hosting their annual get together on Tuesday, March 31st at the Hope Hotel for 6:00-8:00 p.m. She said the cost is \$28 per person with a cash bar. She said the Fisher House Compassionate Care Facility will be hosting an event on April 25th at the National Air Force Museum at 6:00 p.m. She said it will feature food stations, silent auction and a live auction with the master ceremonies Jim Butcher and musical entertainment. All proceeds will go to the Fisher Nightingale House.

MAYOR'S REPORT

Mayor Jarvis congratulated the Beavercreek High School Girls Basketball Teams. He said all the teams had winning seasons this year. He said True Heights Outfitters will be having their grand re-opening at their new location at 3253 Seajay Drive on Thursday, April 2nd at 10:00 a.m.

COUNCIL TIME

Council Member Litteral thanked all the volunteers at all capacities. She said in May they will be cleaning up the I-675 area and if any organizations wish to help out to please contact her.

March 23, 2015

Council Member Upton thanked the volunteers from all the organizations within the community.

Council Member Giambrone said there were a lot of applications for the Planning Commission which only had one position open. She said we have other boards and commission to get involved with and other ways to get engaged. She said Beavercreek could not do what it does without volunteers.

Council Member Petrak said the Family Violence 5K Walk/Run will be held on April 25th at the high school. He said it has been renamed the Child Abuse Prevention and Elimination Walk. He said the proceeds go to the Family Violence Prevention Center. He said the Annual Uncommon Affair will be held May 1st.

Council Member Whilding said there are many things that couldn't be done without volunteers. He said you can donate to the Family Violence Prevention Center through the Goodwill in Xenia. He explained if you take your ticket to the Family Violence Prevention Center they can get items they need for families involved there. He asked everyone to slow down and watch for kids since it is getting nice out.

CITIZEN COMMENTS

Bob Stone, 2983 Wallingway, Beavercreek, Ohio donates his 3 minutes to Tom Kretz.

Tom Kretz, 239 Catalpa Ct., Beavercreek, Ohio 45440

Mr. Kretz thanked each member of Council for their commitment to public service. He said Thomas Jefferson once said if you are angry count to 10 before you speak, if very angry count to 100. He said to please understand he wrote these comments after he counted to 101. He said as a resident of Beavercreek for the past 22 years, a former business owner in the city, a current business owner in the township and a current Beavercreek Township Trustee he feels compelled to express his concerns with Council's decision this evening approve a \$44,000 consulting agreement without first sitting down with the Township Trustees to discuss. He said the irony is as a Beavercreek Township Trustee, he had the privilege today of swearing in a new full-time fire fighter. He said how ironic to find himself here this evening to hear Council's willingness to spend \$44,000 of taxpayer dollars to explore alternatives for the current fire department that over 8,000 residents of Beavercreek told him they were very pleased with and proud of when he and his wife knocked on over 4,000 doors a little over a year ago. He said one year ago this month the Trustees and Council met in this

March 23, 2015

room to discuss the concept of shared services and joint service agreements and opportunities for efficiencies and areas we could reduce redundancy. He said that meeting did not end well largely due to the annexation of Rotary Park, Phillips Park, Fire Station 61 and the Rine Landscaping Property which created a long and costly legal battle between the City, the Township and the County. He said the irony tonight was the public reading of the rezoning case involving the Rine Property where the City forced the Township, the City, the County and the local business Rine Landscaping to spend hundreds of thousands of dollars to fight. He said some politicians argue that the Township and the County should not have fought the action. He said residents he spoke to shared his feelings about valuable tax dollars the City was spending to take lands that borders zero real estate tax benefit since they were owned by the Township or the County. He said he was even more upset when he brokered a settlement with the Rine Family only to have the City threaten additional legal action to recover hundreds of thousands of dollars due to pre-annexation agreement the City made with the Rine's. He said all in all it was a tremendous waste of tax dollars and everyone in this room would agree with that in some capacity. He said he was happy for the Rine's and that their small business will be able to move forward. He said they do great work and was sad to see them leave the Township. He said they are good people. He said prior to and since his election to the Board of Trustees he remains constant in his mission to root out inefficiency, eliminate redundancy and streamline the operation of the Township. He was here this evening to tell Council there are good things happening in the Township. He said in 2014, they negotiated a favorable contract with the firefighter's union that resulted in a 2% average wage increase over the next six year period. He said it also reduced the Township's portion of health care benefits that they pay over a period of time. He said the Township performed a Township wide performance audit and an HR audit which resulted in a directive this past January of 35 directives given to the Township Administrator to put into action. He said all of this information is available online and available for review. He said additionally they began to migrate from a combination full-time/part-time fire department to an all career full-time fire department. He said they hired a full-time administrator to better manage the administrative functions of the Township. He said they are moving forward with the consolidation of the fiscal office facility into the fire administrative offices to create a true one stop shop operation for residents, businesses and developers. He said they recently approved a new organization chart to create a finance director position reporting directly to the Township Administrator in place of historical assistant to the fiscal office. He said additionally they created a new purchase requisition process for all capital and major expenses, implemented cost accounting in the fire department which is soon to be implemented across the entire township. He said the Board of Trustees gave the Administrator a unanimous directive to work with the City Council and directive with the City

March 23, 2015

Manager to create a shared service agreement that would reduce general fund expenditures in the Township within 2015. He said he did not know if all of this had been shared with Council but he wanted to verbalize this tonight. He said to date they were still waiting for the City to accept their invitation to meet and work together. He said it was his understanding that Council is divided on meeting with the Township. Mr. Kretz found this disappointing. He said he has spoken at length with Mr. Cornell that the Township and the City each have strengths and weaknesses and need to work together to create a unified community and a government that leverages the best of both parts of our community. He said the offer remains but becomes more challenging with each tax dollar the City spends on investigating ways to divide the community including the assets of the fire department which were paid for by the residents of the City, the residents of the Township and the estate of Ervin J. Nutter. Mr. Kretz looks forward to sitting down with each of Council and doing the job they were elected to do. He said thank you and God bless America.

Frank Rine, 2724 Vickie Drive, Beavercreek, Ohio

Mr. Rine said he planned to move his family in 2006 to the City of Beavercreek. He said he felt the City of Beavercreek was a great community to raise his three boys. He said he felt he has done a lot for this community both on a personal and business level. He did not plan to stand up and speak tonight. He said it was his decision to pursue an annexation into the City of Beavercreek. He said that did not come lightly in his mind to do that. He said he fought a seven year long battle with Beavercreek Township before he even approached the City of Beavercreek and ask for annexation. He said during a year long process from the pre-annexation agreement to the actual decision to get things done not a single township member came to talk to me. He said yes, Mr. Kretz came to talk to me to try to work out a resolution but if it were not for the backward thinking of the Beavercreek Township I would not be part of the Beavercreek City right now. He had to say this for what it's worth. He said he was proud to be a citizen of Beavercreek and proud to be an American but he felt that people have the right to live and be within legal rights. He said if bigger things happen because of that and what he did triggered other things to happen so be it. He felt Beavercreek Township had every opportunity to make things right with him as a citizen and a tax payer before he chose to annex into the City of Beavercreek.

ADJOURNMENT

Council Member Litteral MOVED to adjourn the meeting at 7:29 p.m., seconded by Council Member Petrak. Motion PASSED by majority voice vote.

BEAVERCREEK CITY COUNCIL

REGULAR

March 23, 2015

Brian Jarvis, Mayor

ATTEST:

Dianne Lampton
Clerk of Council
Cmin032315

interoffice
MEMORANDUM

To: Beaver Creek City Council
Mike Cornell, City Manager

From: Matthew Funk, Code Enforcement Officer

Subject: Property Maintenance Code Update

Date: April 8, 2015

MAC 4915

Attached is the proposed update to the Property Maintenance Code and other property maintenance related codes. As stated previously, these draft codes updates have been placed on the city's website for citizen review.

Since the last work session, there have been a few changes to the draft updates. Those changes are as follows:

- 1.) Staff is removing language from the draft Section 97.13. The language that is being removed is in the current code but was determined to be poorly written, caused redundancy in the code and proposed to be removed from the update.

New Section 97.13

~~(E) The city may collect the cost by including administrative and related cost, to be certified to the County Auditor to be entered upon the tax duplicate and there shall be a lien upon such land and collected as other taxes and returned to the city.~~

~~(F) The City Manager shall provide such administrative policy necessary to enforce this section.~~

- 2.) There has been discussion about the draft Property Maintenance Code Section 153.04 concerning right of entry. After further discussion on this matter, staff has decided to continue to use the language in the current code.

Original proposal – Section 153.04

~~(C) Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.~~

New Proposal – Section 153.04 (taken from existing Section 153.56 (B))

(C) Right of entry. The code official is authorized to enter the structure or premises at reasonable times to inspect, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

- 3.) Staff received some feedback and has had some discussion with residents concerning the use of tarps (draft Property Maintenance Code Section 153.30) as it relates to covering firewood. Staff recognizes this as a legitimate use of tarps and is adding language to allow for the use of tarps to cover firewood.

New Property Maintenance Code Section 153.30

(O) Use of Tarps. The use of tarps for roof and building repairs for more than 60 days is prohibited. The use of tarps for vehicle covers, temporary canopies, screening, enclosures, awnings, covering items, and the like, for more than 10 days is prohibited in any outdoor area, except for covers purposefully designed and manufactured to form fit a vehicle or item.

Additionally, firewood stored in accordance with (L) may be covered with a tarp that is black, brown, dark green or other color as approved by the code official.

ORDINANCE NO. 15-08

CITY OF BEAVERCREEK

**SPONSORED BY COUNCIL MEMBER _____ ON THE 13TH
DAY OF APRIL, 2015**

AN ORDINANCE REPEALING CURRENT SECTIONS 94.20-94.33, 97.15, 97.16, 158.122 AND 158.123 OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES AND REPEALING CHAPTER 153, SECTIONS 97.01-97.08 AND SECTIONS 97.10-97.14 OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES AND ADOPTING NEW CHAPTER 153, SECTIONS 97.01-97.08 AND SECTIONS 97.10-97.14 OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES.

WHEREAS, certain sections of the current Beaver Creek Property Maintenance Code are out-dated and obsolete; and

WHEREAS, certain property maintenance sections are included in other sections of the Beaver Creek Codified Ordinances and should be properly incorporated into the property maintenance code; and

WHEREAS, City staff have undertaken the task of updating the Beaver Creek Property Maintenance code; and

WHEREAS, the City Manager, the Planning Director and the Code Enforcement Officer recommend approval of the submitted revisions to the Beaver Creek Codified Ordinances.

NOW, THEREFORE, THE CITY OF BEAVERCREEK HEREBY ORDAINS:

SECTION I.

Current sections 94.20-94.33, 97.15, 97.16, 158.122 and 158.123 of the City of Beaver Creek Code of Ordinances are repealed. Chapter 153, Sections 97.01-97.08 and Sections 97.10-97.14 of the City of Beaver Creek Code of Ordinances are repealed and new Chapter 153, Sections 97.01-97.08 and Sections 97.10-97.14 of the City of Beaver Creek Code of Ordinances are adopted as drafted in Exhibit "A", attached hereto and incorporated herein.

SECTION II.

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this

Council, and that any and all deliberations of this Council that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

SECTION III.

This Ordinance shall take effect at the earliest date allowed by law.

PASSED this _____ day of _____, 2015.

Brian Jarvis, Mayor

ATTEST:

CLERK OF BEAVERCREEK COUNCIL

PREPARED BY: CITY ATTORNEY

SUMMARY

THIS ORDINANCE REPEALS CURRENT SECTIONS 94.20-94.33, 97.15, 97.16, 158.122 AND 158.123 OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES AND REPEALS CHAPTER 153, SECTIONS 97.01-97.08 AND SECTIONS 97.10-97.14 OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES AND ADOPTS NEW CHAPTER 153, SECTIONS 97.01-97.08 AND 97.10-97.14 OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES. THIS IS NOT AN EMERGENCY ORDINANCE AND WILL BECOME EFFECTIVE 30 DAYS AFTER PASSAGE.

PROPOSED CODE CHANGES

Chapter/ Section	Existing Title	New Title	Action Required
94.20	Unclean Habitations		Rescind this section in its entirety
94.21	When Deemed Unsanitary		Rescind this section in its entirety
94.22	Order For Abatement Or Vacation Of Premises		Rescind this section in its entirety
94.23	Vacation And Abatement Hearings		Rescind this section in its entirety
94.24	Notice Of Vacation		Rescind this section in its entirety
94.25	Enforcement By Police Chief		Rescind this section in its entirety
94.26	Enforcement Through Court Proceedings		Rescind this section in its entirety
94.27	Cleanliness Of Hotels And Lodging Houses		Rescind this section in its entirety
94.28	Order To Clean Up Premises		Rescind this section in its entirety
94.29	Sanitary Inspection		Rescind this section in its entirety
94.30	Individual Orders For Abatement		Rescind this section in its entirety
94.31	Unclean Premises		Rescind this section in its entirety
94.32	Periodic Inspection		Rescind this section in its entirety
94.33	Enforcement; Court Proceedings		Rescind this section in its entirety
97.01	Tree Care and Maintenance		Amend language
97.02	Administration of Tree Provisions		Amend language
97.03	Tree Permits; Fee		Amend language
97.04	Prohibited Trees		Amend language
97.05	Location of Trees		Amend language
97.06	Tree Removal		Amend language
97.07	Tree Trimming		Amend language
97.08	Compliance and Appeal		Amend language
97.10	Keeping Down Weeds	Weeds And Grass	Amend language
97.11	Notice To Owner To Cut Noxious Weeds	Noxious Weeds	Replace existing with new language
97.12	Fees For Service And Return	Trees, Hedges And Shrubbery	Replace existing with new language
97.13	Procedure When Owner Fails To Comply With Notice	Cutting and Removal of Weeds, Grass and other Overgrown Vegetation	Replace existing with amended 97.16 language
97.14	Written Return to County Auditor	Destruction of Shrubs, Trees or Crops	Replace existing with 97.15
97.15	Destruction of Shrubs, Trees or Crops		Relocate language to 97.14 and rescind section
97.16	Removal Of Weeds And Other Deleterious Plants Growth By Owner		Relocate amended language to 97.13 and rescind section
153	Property Maintenance Code		Replace this chapter in its entirety
158.122	Junk or Inoperable Vehicles in Commercial Districts		Rescind this section in its entirety
158.123	Junk Vehicles in Commercial Districts		Rescind this section in its entirety

Rescind Sections 94.20-94.33 In Its Entirety

BEAVERCREEK, OH CODE OF ORDINANCES

CHAPTER 94: HEALTH AND SANITATION

§ 94.20 UNCLEAN HABITATIONS.

(A) No person shall lease, let, permit the occupancy of, permit the continuation of the occupancy of, or continue the occupancy of any structure or building, or any portion thereof, used for human habitation unless such structure or building, or portion thereof, is free from unclean and unsanitary conditions as defined in the subsequent sections of this chapter, and unless the provisions of such subsequent sections are complied with.

(B) Each day's violation of this section shall constitute a separate offense.

(C) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 80-26, § 657.02, passed 5-12-80) Penalty, see § 130.99

Statutory reference:

Local authority to regulate sanitation of buildings, see R.C. § 715.29

§ 94.21 WHEN DEEMED UNSANITARY.

(A) Any structure or building, or any portion thereof used for human habitation shall be deemed to be in an unclean and unsanitary condition:

(1) By reason of any portion of such building being infected with a communicable disease, or by reason of the absence thereon of toilet facilities as required by law or ordinance, or by reason of the known presence of sewer gas therein or thereon.

(2) When unfit for human habitation or in a condition dangerous or harmful to the lives or health of the occupants by reason of the inhabited portion of the house being damp or wet, or by-reason of such lack of repair, or by reason of such accumulation of dirt, filth, litter, refuse or other offensive or dangerous substances or liquids, or by reason of such defects in, lack of repair of or improper use of the drainage, plumbing or ventilation, or by reason of the existence on the premises of such a nuisance or other condition as is likely to cause sickness among the occupants.

(B) Any structure or building, or any portion thereof, used for human habitation which is in such unclean or unsanitary condition is hereby declared to constitute a public nuisance.

(Ord. 80-26, § 657.03, passed 5-12-80) Penalty, see § 130.99

§ 94.22 ORDER FOR ABATEMENT OR VACATION OF PREMISES.

(A) Whenever the County Board of Health ascertains from examination or reports of its inspectors or sanitary officers, or otherwise, that a public nuisance exists, as defined in § 94.21, in or upon any structure of building, or portion thereof, and is of the opinion that such nuisance is capable of being abated without immediate vacation of the premises, or portion thereof, and serves notice upon the owner of such house, or his lessee or agent, or the person in possession, charge or control thereof, directing him to abate such nuisance and remove the unclean or unsanitary conditions within such reasonable time as may be fixed by the Board and specified in such notice, then such owner, agent or person shall abate such nuisance within such time.

(B) Whenever such abatement does not take place within such time, or whenever in the opinion of the Board such abatement is impossible or impracticable without an immediate vacation of the house, or portion thereof, and the Board serves notice upon the owner, lessee, agent or person in possession, charge or control thereof to vacate or cause the vacation of such house, or portion thereof, designated in the notice, then such owner, lessee, agent or person shall vacate or cause the vacation of such house, or portion thereof, within 20 days from the date of the service of such notice, or within a shorter time, not less than 24 hours in any case, as may be specified in such notice.

(C) Whenever, either in addition to or without the service of such notices on such owner, lessee, agent or person in possession, charge or control, the Board is of the opinion that such nuisance can be abated by a tenant or other occupant of such house, or portion thereof and such notices, either for abatement of the nuisance or of vacation of the premises, are served upon such tenant or other occupant, then such tenant or other occupant shall comply with the terms of such notices and abate the nuisance or vacate the premises accordingly. After any such notice or order of vacation, no person shall occupy or permit the occupancy of such premises or portion thereof until such nuisance has been completely abated and such building or portion thereof has been rendered clean and sanitary in accordance with the terms of such notice of the Board.

(D) When there is no owner, agent, lessee or person in charge, possession or control, who is a resident of or can be served in the city, then personal service outside of the city on any such owner, agent, lessee or person in charge, possession or control by anyone delegated by the Board to make such service, or by registered letter, or if the address of the owner, lessee, agent or person in possession, charge or control is unknown, or service is not secured by registered letter after effort to do so, by notice of publication once a week for two consecutive weeks in any newspaper of general circulation in the city, or posting or attaching to or on the outside of such structure or building of a copy of the notice or order consecutively for two weeks, shall have the same effect as service within the city. (Ord. 80-26, § 657.04, passed 5-12-80)

§ 94.23 VACATION AND ABATEMENT HEARINGS.

When the notice or order of vacation follows a notice or order of abatement as provided in § 94.22, such notice or order of vacation shall not be enforced as provided in this chapter unless such notice or order of abatement specifies a time when the person so notified or ordered may appear before the Board of Health or officer issuing the same to show cause why such order or notice of vacation should not be issued, and unless the Board, or a majority thereof, or officer is present at its or his office at the time so specified. Such time shall be not less than 24 hours after the service of the notice or order. When the notice or order of vacation is issued as provided in § 94.22, without a previous notice or order of abatement, such notice or order of vacation shall not be enforced as provided in this chapter unless it specifies a time, not less than five days after the service thereof, when the person so notified or ordered may appear before the Board issuing the same to show cause why such notice or order should not be enforced, and the Board, or a majority thereof, is present at its office at the time so specified. However, when in the opinion of at least four-fifths of the members of the Board, an emergency exists which requires for the protection of the health of occupants, the vacation of the building, or portion thereof, without a delay of five days, then no such fixing of a time for hearing shall be required.

(Ord. 80-26, § 657.05, passed 5-12-80)

§ 94.24 NOTICE OF VACATION.

Whenever such procedure, in the opinion of the Board of Health, is desirable or necessary, the Board may affix conspicuously on the buildings, or part thereof, the notice or order of vacation.

(Ord. 80-26, § 657.06, passed 5-12-80)

§ 94.25 ENFORCEMENT BY CHIEF OF POLICE.

When the notice or order of vacation has not been complied with, and the Board of Health certifies such fact to the Chief of Police, together with a copy of the order or notice, the Chief of Police shall enforce such notice or order of vacation and cause the premises to be vacated in accordance with the terms of such notice or order.

(Ord. 80-26, § 657.07, passed 5-12-80)

§ 94.26 ENFORCEMENT THROUGH COURT PROCEEDINGS.

Whenever the Board of Health certifies to the Solicitor, Law Director or other attorney in charge of the legal matters for this city, any failure to comply with any such order or notice of vacation, with the request that civil proceedings for the enforcement thereof be instituted, the attorney shall institute any and all proceedings, either legal or equitable, that may be appropriate or necessary for the enforcement of such order or notice and the abatement of the nuisance against which such order or notice was directed. Such suits or proceedings shall be brought in the name of the city. Proceedings under this section shall not relieve any party defendant from criminal prosecution or punishment under this code or any other criminal law or ordinance in force within the city.

(Ord. 80-26, § 657.08, passed 5-12-80)

§ 94.27 CLEANLINESS OF HOTELS AND LODGING HOUSES.

(A) Every owner of, and every agent in charge of, a tenement house, lodging house, tourist home, tourist cabin or hotel, or part thereof, shall cause to be kept thoroughly clean all parts of the premises not within the occupied apartments. No person shall place filth, urine or fecal matter in any place other than provided for the same, or keep filth, urine or fecal matter in his apartments or upon his premises for such length of time as to create a nuisance, and every tenant shall keep his apartment in a clean and sanitary condition. The walls of courts and shafts, unless built in a

light color brick or stone, shall be thoroughly whitewashed or painted a light color, and shall be so maintained. Such whitewash or paint shall be renewed as required by the Board of Health.

(B) Each day's violation of this section shall constitute a separate offense.

(C) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 80-26, § 657.09, passed 5-12-80)

§ 94.28 ORDER TO CLEAN UP PREMISES.

Prior to May 10 in every year, the Council shall cause a notice or proclamation to be inserted in one or more newspapers of general circulation within the city, ordering persons to clean thoroughly and provide proper drainage for all lands, yards, vaults, cesspools, sheds and barns and to cause all tin cans, trash and other unclean and unsightly matter to be removed there from on or before May 10.

(Ord. 80-26, § 657.10, passed 5-12-80)

§ 94.29 SANITARY INSPECTION.

Thereafter in the month of May of each year the County Health Officer or, in his absence, the Chief of Police shall make a thorough sanitary inspection of all public and private property in the city and shall transmit his report, together with his recommendations, to Council on or before June 1. A copy of such report shall also be sent to the State Department of Health.

(Ord. 80-26, § 657.11, passed 5-12-80)

§ 94.30 INDIVIDUAL ORDERS FOR ABATEMENT.

(A) If, upon inspection, it is found that the published order has not been complied with as to any lot or parcel of ground, Council shall by resolution direct the owner, occupant or person in charge of such land to abate such nuisance within ten days, setting forth the nature of the violation and the acts required to be done. Such resolution shall provide that upon failure or refusal to comply with such order, the work required will be done by the city with the amount expended therefore to be a valid claim against such owner or occupant and charged as a lien upon such land and recovered by the city by suit in a court of competent jurisdiction.

(B) A copy of the resolution adopted under division (A) above may be served personally or at the usual place of residence of such owner, occupant or person in charge of such land, or by registered mail. In lieu of such service, notice may be published for two consecutive weeks in a newspaper of general circulation in the city.

(Ord. 80-26, §§ 657.12, 657.13, passed 5-12-80)

§ 94.31 UNCLEAN PREMISES PROHIBITED.

(A) No owner, occupant or person in charge of any lot or parcel of ground shall cause or permit water to accumulate thereon and become stagnant, permit culverts, drains or natural watercourses thereon to become obstructed, or cause or permit any putrid or unsanitary substance to accumulate thereon.

(B) Each day's violation of this section shall constitute a separate offense.

(C) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 80-26, § 657.14, passed 5-12-80) Penalty, see § 130.99

§ 94.32 PERIODIC INSPECTION.

Independent of the annual clean-up and inspection provided for in §§ 94.28 and 94.29, the County Health Officer or Chief of Police shall make periodic inspection of properties within the city and shall report all violations of § 94.31 to Council, which shall thereupon by resolution proceed to order such nuisances abated as provided in § 94.30.

(Ord. 80-26, § 657.15, passed 5-12-80)

§ 94.33 ENFORCEMENT; COURT PROCEEDINGS.

In case of failure or refusal to comply with any such resolution of Council, the work required thereby may be done at the expense of the corporation and the amount of money expended therefore shall be a valid claim against such owner, occupant or person in charge and a lien upon such land which may be enforced by suit in any court of competent jurisdiction. Proceedings under this section shall not relieve any party defendant from criminal prosecution or punishment for violation of any section of this Code or any other criminal law or ordinance in force within the city.

(Ord. 80-26, § 657.16, passed 5-12-80)

Amend Language For Sections 97.01-97.08

§ 97.01 TREE CARE AND MAINTENANCE.

(A) Trees ~~and shrubbery~~ growing ~~within the along~~ public ~~right-of-way streets~~ are the responsibility of the abutting property owner for care and maintenance, but remain there only by consent of the city. No such tree, if removed, may be replaced except by permission of the city.

(B) Each day's violation of this section constitutes a separate offense.

(C) Whoever violates this section is guilty of a minor misdemeanor.

§ 97.02 ADMINISTRATION OF TREE PROVISIONS.

The City Manager ~~or the Mayor~~ shall administer and enforce the provisions of this chapter and designate the city department ~~(s)~~ which shall carry out any provisions requiring city action.

§ 97.03 TREE PERMITS; FEE.

(A) No person shall hereafter plant any tree in a public place or street right-of-way without first obtaining a written permit from the ~~city~~ ~~City Manager or the Mayor~~. Permits shall also be obtained for the pruning, trimming or cutting down of trees on public streets or in public places. However, the agent of the city shall not be required to obtain a permit for this purpose.

(B) The cost of a permit obtained under the provisions of this chapter shall be in an amount determined by ~~the Engineering Fee Schedule~~ ~~Council resolution~~. Each permit shall be valid for a period of 30 days from the date of issuance. However, such permit may be revoked by the ~~city~~ ~~City Manager or the Mayor~~, when it is determined that any permit holder is operating in violation of this chapter.

(C) Each day's violation of this section constitutes a separate offense.

(D) Whoever violates this section is guilty of a minor misdemeanor.

§ 97.04 PROHIBITED TREES.

(A) The following trees shall not be used for planting along public streets or on private property so as to constitute a nuisance to any public streets, sidewalks or ways: fruit trees, box elders, Chinese elms, cottonwoods, poplars, willows, dwarf catalpa, soft maples, berry trees, horse chestnut, ~~tree of heaven~~, ~~ash~~ and black locust. No tree of any type shall be planted which is diseased.

(B) Each day's violation of this section constitutes a separate offense.

(C) Whoever violates this section is guilty of a minor misdemeanor.

§ 97.05 LOCATION OF TREES.

(A) No tree shall be planted in the strip between the street and sidewalk where such strip is less than ten feet wide. As space permits, trees should be planted well back from the curb, but at least four feet from the sidewalk, driveways, fire hydrants and water or gas shutoff valves. No trees planted on private property shall be located less than four feet from a public sidewalk. No tree or any shrub which exceeds three feet in height shall be planted within 20 feet of any street intersection.

(B) Each day's violation of this section constitutes a separate offense.

(C) Whoever violates this section is guilty of a minor misdemeanor.

§ 97.06 TREE REMOVAL.

(A) The property owner and any property owner abutting public right-of-way shall:

- (1) Cut down and remove any tree or shrubbery, or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street intersection, or to abate any nuisance or hazard necessary to protect life, limb or property of persons, drivers of any vehicles or pedestrians using the street, sidewalk, sidepath or bikeway.
- (2) Cut down and remove any tree or shrubbery, or any part thereof, which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements. Cut down and remove any prohibited tree as set forth in §97.04.
- (3) At the time of the tree or shrubbery removal, all stumps shall be removed 12 inches below the surface of the ground. All residual material shall be removed and the site shall be restored.

(B) Each day's violation of this section constitutes a separate offense.

(C) Whoever violates this section is guilty of a minor misdemeanor.

~~—Any tree on public property which is diseased or is a nuisance or a hazard to public safety may be removed by order of the City Manager or the Mayor, or on request of the abutting property owner at city expense. Any of the prohibited trees listed in § 97.04 growing on public or private property which interfere with sewer lines or constitute a public nuisance or a hazard, or any trees on private property which overhang a public street or sidewalk which constitute a public nuisance or hazard may be ordered removed by the City Manager or the Mayor. Where such trees are on private property, removal shall be at the property owner's expense.~~

§ 97.07 TREE TRIMMING.

(A) Any tree growing on public property or a street right-of-way shall be kept trimmed by the abutting property owner so as to allow a minimum of eight feet of clearance where it overhangs a sidewalk, sidepath or bikeway and 12 feet where it overhangs a street.

(B) Any tree growing on private property which overhangs a public street, ~~or sidewalk,~~ sidepath or bikeway shall be kept trimmed by the property owner so as to allow a minimum of eight feet of

clearance where it overhangs a sidewalk, sidepath or bikeway and 12 feet where it overhangs a street. ~~The City Manager or the Mayor may order property owners to trim trees on private property to comply with this provision.~~

(C) Each day's violation of this section constitutes a separate offense.

(D) Whoever violates this section is guilty of a minor misdemeanor.

§ 97.08 COMPLIANCE AND APPEAL.

(A) If any property owner fails to comply with an ~~an~~ notice or order of the ~~city~~ City Manager or the Mayor to trim or remove a tree on private property or public right-of-way, as provided herein, within 30 days, the ~~city~~ City Manager or the Mayor shall cause such tree to be removed or trimmed and the cost shall be assessed against the real estate of the property owner or the property owner abutting public right-of-way.

(B) Any person directly affected by a decision, notice or order issued under this code shall have the right to appeal to the Board of Zoning Appeals, provided that a written application for appeal is filed within 15 days from the date of the decision, notice or order. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. Appeals heard by the Board of Zoning Appeals shall be submitted on forms provided by the city. ~~The property owner may appeal to Council in writing any compliance order of the City Manager or the Mayor and appear before Council to state his case. The decision of Council shall be final and conclusive.~~

§ 97.09 PROTECTION OF TREES.

(A) No person shall abuse trees or mutilate any tree or shrub on a public street or other public place, or attach any rope or wire, other than one used to support a young or broken tree, sign, poster, handbill or anything to such trees. Utility companies shall be responsible for keeping overhead lines from coming in contact with trees and from allowing gaseous substances to cause damage to trees.

(B) Each day's violation of this section constitutes a separate offense.

(C) Whoever violates this section is guilty of a minor misdemeanor.

Amend Language For Sections 97.10

97.10 ~~KEEPING DOWN WEEDS~~ WEEDS AND GRASS.

(A) No owner, occupant or person having the charge or management of any lot or parcel of land situated within the city, whether the same is improved, unimproved, vacant or occupied, shall permit any weeds or, grass ~~or plants, other than trees, bushes, flowers or other ornamental plants~~ to grow thereon to a height exceeding ten inches, 25.4 centimeters (ten inches), except for the following conditions:

(1) All vacant lots or parcels of land, five acres or more in area, must be mowed over its entire area on at least two occasions every calendar year, the first mowing to occur on or before May 15th and the second mowing to occur between September 1st and October 15th.

(2) All vacant lots or parcels of land, five acres or more in area, in any zoning district, abutting or adjacent to developed areas, shall at all times cut and maintain a mowed fifty foot setback from the front property line and any developed areas, at a height not to exceed ten inches, and shall, in addition, be mowed over its entire area on at least two occasions every calendar year, the first mowing to occur on or before May 15th and the second mowing to occur between September 1st and October 15th.

(B) The owner, occupant or person having the charge or management of any lot or parcel of land abutting public right-of-way shall be responsible for cutting and/or removing all grass and weeds over ten inches in the area between the curb and sidewalk, or between the edge of the pavement and the property line where there is no curb or sidewalk, or the area between the center line of an unimproved alley or street and the property line.

(C) For the purpose of this section, the term WEEDS means any vegetation commonly referred to as a weed and shall also include, but not limited to, grasses, annual plants and vegetation; however, this term shall not include cultivated vegetation such as flowers, ornamental plants, trees, shrubs, agricultural crops and gardens that are reasonably maintained.

~~(B)~~ D Each day's violation of this section constitutes a separate offense.

~~(C)~~ E Whoever violates this section is guilty of a minor misdemeanor.

**Replace Existing Section 97.11 With
New Language**

~~§ 97.11 NOTICE TO OWNER TO CUT NOXIOUS WEEDS; SERVICE.~~

~~— Upon information that noxious weeds are growing on lands in the city and are about to spread or mature seeds, Council shall cause written notice to be served on the owner or person having charge of such land that such weeds must be cut and destroyed within five days after service of such notice. If such owner or person having charge of such land is a nonresident whose address is known, such notice shall be sent to his address by registered mail; if unknown, it shall be sufficient to publish such notice once in a newspaper of general circulation in the county.~~

97.11 NOXIOUS WEEDS

(A) The owner, occupant or person having the charge or management of any lot or parcel of land situated within the city, whether the same is improved, unimproved, vacant or occupied, shall cut and destroy all noxious weeds.

(B) For the purpose of this section, NOXIOUS WEEDS shall mean those plant species including, but not limited to, those listed in Chapter 901:5-37 of the Ohio Administrative Code and poison ivy, poison oak, poison sumac, or other plant species of rank growth which may potentially create, directly or indirectly, an unhealthy or unsafe condition.

(C) Each day's violation of this section constitutes a separate offense.

(D) Whoever violates this section is guilty of a minor misdemeanor.

**Replace Existing Section 97.12 With
New Language**

~~§ 97.12 FEES FOR SERVICE AND RETURN.~~

~~—Any police officer or the City Clerk may make service and return of the notice provided for in § 97.11 and shall be allowed the same fee as that provided for service and return of summons in civil cases before a magistrate.~~

97.12 TREES, HEDGES AND SHRUBBERY

(A) All Trees, hedges, shrubbery or other vegetation shall be kept properly maintained and shall not be permitted to become overgrown or unsightly, constituting a blighting factor to adjoining property.

(B) Each day's violation of this section constitutes a separate offense.

(C) Whoever violates this section is guilty of a minor misdemeanor.

**Replace Existing Section 97.13 With
Amended Language From Section 97.16**

~~§ 97.13 PROCEDURE WHEN OWNER FAILS TO COMPLY WITH NOTICE.~~

~~—If the owner or person having charge of such land fails to comply with such notice, Council shall cause the noxious weeds to be cut and destroyed. All expenses and labor costs incurred shall, when approved by Council, be paid out of city funds not otherwise appropriated.~~

§ 97.1316 ~~REMOVAL OF WEEDS AND OTHER DELETERIOUS PLANT GROWTH BY OWNER~~ CUTTING AND REMOVAL OF WEEDS, GRASS AND OTHER OVERGROWN VEGETATION.

(A) The owner of any lot or parcel of land situated within the corporate limits that is determined to be out of compliance with § 97.10, § 97.11 or § 97.12, whether the same is improved or unimproved vacant or occupied, within five days written notice to do so, shall cause to be cut and/ or to remove, weeds, noxious weeds, ~~overgrown~~ grass, trees, shrubbery or other overgrown vegetation ~~deleterious growth~~ upon such lot or parcel or upon any street, public place or tree lawn abutting such lot or parcel.

~~—(B) Whoever violates or fails to comply with this section is guilty of a minor misdemeanor. A separate offense is deemed committed each day on which a violation occurs or continues.~~

~~—(C) (1) The City Manager shall cause a notice to appear in a newspaper of general circulation to be published on or about April 15 of each calendar year, informing the property owners within the city of the requirements contained in § 97.10. This notice shall contain the following information:~~

~~——(a) All properties within the city must be maintained in accordance with § 97.10, which prohibits grass or weed growth in excess of ten inches.~~

~~——(b) Should the owner of the property fail to comply with § 97.10, the city will cause the weeds or grass to be cut at the owner's expense. The city will place a lien on the property for the amount owed in accordance with R.C. § 731.54.~~

~~——(c) Contact information for the appropriate city department.~~

—(B2) (a) Those properties found to be in violation of § 97.10, § 97.11 or § 97.12 shall have a ~~placard-written~~ notice conspicuously placed ~~in the front yard of the property~~ on the premises for a period of five days. Said notice ~~placard shall be of a size, shape and color to be clearly visible and~~ shall contain the following information:

1. The nature of the code violation;

2. An order to cut or remove the weeds or grass within five days;

3. A statement indicating that should the property owner fail to comply with the order, the city will cause the weeds or grass to be cut or removed at the owner's expense, and the city will place a lien on the property ~~for the amount owed in accordance with R.C. § 731.54; and~~ and

~~——4. The penalties provided for removing the placard before bringing the property into compliance; and~~

45. Contact information of the appropriate city agency.

(b) Such ~~placard-notice~~ shall remain on the property until the property is brought into compliance with § 97.10, § 97.11 or § 97.12. Removal of the ~~placard-notice~~ before the property ~~complies with § 97.10~~ is brought into compliance shall constitute a violation of this section.

(~~C~~D) In the event that the owner does not comply with the provisions of this section, the City Manager is authorized to enforce the provisions of this section, and cut and/ or remove such weeds, noxious weeds, ~~overgrown~~ grass, trees, shrubbery or other overgrown vegetation ~~deleterious growth~~ and to make return to the County Auditor approving expenses thereof.

(~~D~~E) The city may collect the cost by including administrative and related cost, to be certified to the County Auditor to be entered upon the tax duplicate and there shall be a lien upon such land and collected as other taxes and returned to the city.

(~~E~~F) The City Manager shall provide such administrative policy necessary to enforce this section.

(~~F~~B) Whoever violates or fails to comply with this section is guilty of a minor misdemeanor.

(G) A separate offense is deemed committed each day on which a violation occurs or continues.

**Replace Existing Section 97.14 with Language
from Section 97.15**

~~§ 97.14 WRITTEN RETURN TO COUNTY AUDITOR.~~

~~—Council shall make a written return to the County Auditor of their action under §§ 97.11 to 97.13 with a statement of the charges for their services, the amount paid for labor, the fees of the officers serving such notices and a proper description of the premises. Such amounts, when allowed, shall be entered upon the tax duplicate and be a lien upon such lands from and after the date of the entry and be collected as other taxes and returned to the city with the General Fund.~~

§ 97.14~~15~~ DESTRUCTION OF SHRUBS, TREES OR CROPS.

(A) No person, without privilege to do so, shall recklessly cut down, destroy, girdle or otherwise injure a vine, bush, shrub, sapling, tree or crop standing or growing on the land of another or upon public land.

(B) In addition to any penalty provided, whomever violates this section is liable and treble damages for the injury caused.

(C) Whoever violates this section is guilty of a minor misdemeanor.

Rescind Sections 97.15 & 97.16

§ 97.15 DESTRUCTION OF SHRUBS, TREES OR CROPS.

(A) No person, without privilege to do so, shall recklessly cut down, destroy, girdle or otherwise injure a vine, bush, shrub, sapling, tree or crop standing or growing on the land of another or upon public land.

(B) In addition to any penalty provided, whomever violates this section is liable and treble damages for the injury caused.

(C) Whoever violates this section is guilty of a minor misdemeanor.

§ 97.16 REMOVAL OF WEEDS AND OTHER DELETERIOUS PLANT GROWTH BY OWNER.

(A) The owner of any lot or parcel of land situated within the corporate limits, whether the same is improved or unimproved vacant or occupied, within five days written notice to do so, shall cause to be cut, weeds, overgrown grass or deleterious growth upon such lot or parcel or upon any street, public place or tree lawn abutting such lot or parcel.

(B) Whoever violates or fails to comply with this section is guilty of a minor misdemeanor. A separate offense is deemed committed each day on which a violation occurs or continues.

(C) (1) The City Manager shall cause a notice to appear in a newspaper of general circulation to be published on or about April 15 of each calendar year, informing the property owners within the city of the requirements contained in § 97.10. This notice shall contain the following information:

(a) All properties within the city must be maintained in accordance with § 97.10, which prohibits grass or weed growth in excess of ten inches.

(b) Should the owner of the property fail to comply with § 97.10, the city will cause the weeds or grass to be cut at the owner's expense. The city will place a lien on the property for the amount owed in accordance with R.C. § 731.54.

(c) Contact information for the appropriate city department.

(2) (a) Those properties found to be in violation of § 97.10 shall have a placard conspicuously placed in the front yard of the property for a period of five days. Said placard shall be of a size, shape and color to be clearly visible and shall contain the following information:

1. The nature of the code violation;
2. An order to cut or remove the weeds or grass within five days;
3. A statement indicating that should the property owner fail to comply with the order, the city will cause the weeds or grass to be cut or removed at the owner's expense, and the city will place a lien on the property for the amount owed in accordance with R.C. § 731.54;
4. The penalties provided for removing the placard before bringing the property into compliance; and
5. Contact information of the appropriate city agency.

(b) Such placard shall remain on the property until the property is brought into compliance with § 97.10. Removal of the placard before the property complies with § 97.10 shall constitute a violation of this section.

(D) In the event that the owner does not comply with the provisions of this section, the City Manager is authorized to enforce the provisions of this section, and cut such weeds, overgrown grass or deleterious growth and to make return to the County Auditor approving expenses thereof.

(E) The city may collect the cost by including administrative and related cost, to be certified to the County Auditor to be entered upon the tax duplicate and there shall be a lien upon such land and collected as other taxes and returned to the city.

(F) The City Manager shall provide such administrative policy necessary to enforce this section.

Replace Existing Chapter 153 In Its Entirety

CITY OF BEAVERCREEK
PROPERTY MAINTENANCE CODE

DRAFT

CHAPTER 153: PROPERTY MAINTENANCE CODE

SCOPE AND ADMINISTRATION	1
§ 153.01 GENERAL.....	1
§ 153.02 APPLICABILITY	1
§ 153.03 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION	2
§ 153.04 DUTIES AND POWERS OF THE CODE OFFICIAL.....	2
§ 153.05 APPROVAL	3
§ 153.06 VIOLATIONS.....	3
§ 153.07 NOTICES AND ORDERS	4
§ 153.08 UNSAFE STRUCTURES AND EQUIPMENT.....	4
§ 153.09 EMERGENCY MEASURES	5
§ 153.10 DEMOLITION.....	6
§ 153.11 MEANS OF APPEAL.....	6
§ 153.12 STOP WORK ORDER.....	7
DEFINITIONS	8
§ 153.20 GENERAL DEFINITIONS	8
GENERAL REQUIREMENTS	11
§ 153.30 EXTERIOR PROPERTY AREAS.....	11
§ 153.31 SWIMMING POOLS, SPAS AND HOT TUBS.....	12
§ 153.32 EXTERIOR STRUCTURE.....	12
§ 153.33 INTERIOR STRUCTURE.....	14
§ 153.34 COMPONENT SERVICEABILITY.....	14
§ 153.35 HANDRAILS AND GUARDRAILS	14
§ 153.36 RUBBISH AND GARBAGE.....	14
§ 153.37 PEST ELIMINATION	15
LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS	16
§ 153.40 LIGHT	16
§ 153.41 VENTILATION.....	16
§ 153.42 OCCUPANCY LIMITATIONS	16
PLUMBING FACILITIES AND FIXTURE REQUIREMENTS	19
§ 153.50 REQUIRED PLUMBING FACILITIES	19
§ 153.51 TOILET ROOMS	19
§ 153.52 PLUMBING SYSTEMS AND FIXTURES	19

§ 153.53 WATER SYSTEM	19
§ 153.54 SANITARY DRAINAGE SYSTEM.....	20
§ 153.55 STORM DRAINAGE	20
<i>MECHANICAL AND ELECTRICAL REQUIREMENTS</i>	21
§ 153.60 HEATING FACILITIES.....	21
§ 153.61 MECHANICAL EQUIPMENT.....	21
§ 153.62 ELECTRICAL FACILITIES	21
§ 153.63 ELECTRICAL EQUIPMENT.....	22
§ 153.64 ELEVATORS, ESCALATORS AND DUMBWAITERS	22
§ 153.65 DUCT SYSTEMS.....	23
<i>FIRE SAFETY REQUIREMENT</i>	24
§ 153.70 MEANS OF EGRESS	24
§ 153.71 FIRE-RESISTANCE RATINGS	24
§ 153.72 FIRE PROTECTION SYSTEMS.....	24

SCOPE AND ADMINISTRATION

§ 153.01 GENERAL

(A) *Title.* These regulations shall be known as the City of Beavercreek Property Maintenance Code, hereinafter referred to as "this code."

(B) *Scope.* The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

(C) *Intent.* This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

(D) *Severability.* If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

§ 153.02 APPLICABILITY

(A) *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

(B) *Maintenance.* Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

(C) *Application of other codes.* Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Beavercreek Zoning Code, Ohio Building Code, Ohio Fire Code, International Fuel Gas Code, Ohio Mechanical Code, Residential Code of Ohio for One-, Two-, and Three-Family Dwellings, Ohio Plumbing Code and NFPA 70.

(D) *Existing remedies.* The provisions in this code shall not be construed to abolish or impair existing remedies of the city or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

(E) *Workmanship.* Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's instructions.

(F) *Historic buildings.* The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

(G) *Referenced codes and standards.* The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in (1) and (2). Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

(1) *Conflicts.* Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

(2) *Provisions in referenced codes and standards.* Where the extent of the reference to a referenced code or standard

includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

(H) *Requirements not covered by code.* Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.

(I) *Application of references.* References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

(J) *Other laws.* The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

§ 153.03 DEPARTMENT OF CODE ENFORCEMENT

(A) *General.* The Department of Code Enforcement is hereby created and the executive official in charge thereof shall be known as the code official.

(B) *Appointment.* The code official shall be appointed by the chief appointing authority of the jurisdiction.

(C) *Deputies.* In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the code official shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the code official.

(D) *Liability.* The code official, member of the Board of Zoning Appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

(E) *Fees.* The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the fee schedule as approved by the City Manager..

§ 153.04 DUTIES AND POWERS OF THE CODE OFFICIAL

(A) *General.* The code official is hereby authorized and directed to enforce the provisions of this code. The code official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code.

(B) *Inspections.* The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

(C) *Right of entry.* Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

(D) *Identification.* The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

(E) *Notices and orders.* The code official shall issue all necessary notices or orders to ensure compliance with this code.

(F) *Department records.* The code official shall keep official records of all business and activities of the department

specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

§ 153.05 APPROVAL

(A) *Modifications.* Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases upon application of the owner or owner's representative, provided the code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements.

(B) *Alternative materials, methods and equipment.* The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

(C) *Required testing.* Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the city. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.

(D) *Used material and equipment.* The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved by the code official.

(E) *Approved materials and equipment.* Materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.

(F) *Research reports.* Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

§ 153.06 VIOLATIONS

(A) *Unlawful acts.* It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

(B) *Notice of violation.* The code official shall serve a notice of violation or order in accordance with § 153.007.

(C) *Prosecution of violation.* Any person failing to comply with a notice of violation or order served in accordance with § 153.007 shall be deemed guilty of a misdemeanor or civil infraction as determined by the city, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure or violation is located and shall be a lien upon such real estate.

(D) *Violation penalties.* Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. The penalties are set forth as follows:

1. For a first offense, a minor misdemeanor.
2. For a second offense (whether or not of the same section of this chapter, occurring not later than two years after the first offense) a misdemeanor of the third degree. The court shall impose upon the offender a fine of not less than \$500, no portion of which may be suspended.
3. For a third offense (whether or not of the same section of this chapter, occurring not later than two years after the previous offense), a misdemeanor of the second degree. The court shall impose upon the offender a fine of not less than \$1000, no portion of which may be suspended.

4. For a fourth offense and each subsequent offense (whether or not of the same section of this chapter, occurring not later than two years after the previous offense), a misdemeanor of the second degree. The court shall impose upon the offender a fine of not less than \$1,000, no portion of which may be suspended, or shall impose a sentence of imprisonment for not more than 30 days, with no portion of the imprisonment sentence to be suspended, or may impose both such a fine and sentence of imprisonment.

(E) *Abatement of violation.* The imposition of the penalties herein prescribed shall not preclude the legal officer of the city from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

§ 153.07 NOTICES AND ORDERS

(A) *Notice to person responsible.* Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in (B) and (C) to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with § 153.008 (C).

(B) *Form.* Such notice prescribed in (A) shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit, or structure, or premises into compliance with the provisions of this code.
5. Inform the property owner, owner's agent and/or occupant of the right to appeal.
6. Include a statement of the right to file a lien in accordance with § 153.006 (C).

(C) *Method of service.* Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. Posted in a conspicuous place in or about the structure or premises affected by such notice.

(D) *Unauthorized tampering.* Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.

(E) *Penalties.* Penalties for noncompliance with orders and notices shall be as set forth in § 153.006 (D).

(F) *Transfer of ownership.* It shall be unlawful for the owner of any dwelling unit, structure or premises who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit, structure, or premises to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

§ 153.08 UNSAFE STRUCTURES AND EQUIPMENT

(A) *General.* When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

(1) *Unsafe structures.* An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(2) *Unsafe equipment.* Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

(3) *Structure unfit for human occupancy.* A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(4) *Unlawful structure.* An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

(B) *Closing of vacant structures.* If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

(1) *Authority to disconnect service utilities.* The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in § 153.002 (G) in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The code official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

(C) *Notice.* Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with § 153.007 (C). If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in § 153.007 (B).

(D) *Placarding.* Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

(E) *Prohibited occupancy.* Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

(F) *Abatement methods.* The owner, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

(G) *Record.* The code official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

§ 153.09 EMERGENCY MEASURES

(A) *Imminent danger.* When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been

Prohibited by the Code Enforcement Officer." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

(B) *Temporary safeguards.* Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

(C) *Closing streets.* When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

(D) *Emergency repairs.* For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(E) *Costs of emergency repairs.* Costs incurred in the performance of emergency work shall be paid by the city. The legal counsel of the city shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

(F) *Hearing.* Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

§ 153.10 DEMOLITION

(A) *General.* The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment, after review, is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure; or by reason of continued vacancy thereby resulting in lack of reasonable and adequate maintenance of structures and premises and causing deterioration and blighting influence on nearby properties; or by reason of being vacant and having one or more conditions which violates a provision of this Chapter, to demolish and remove such structure. If such structure is capable of being made safe by repairs, the code official may, in lieu of demolition, order the owner to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option. Where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner to demolish and remove such structure, or board up until future repair. Boarding the structure up for future repair shall not extend beyond six months, unless approved by the code official.

(B) *Notices and orders.* All notices and orders shall comply with § 153.007.

(C) *Failure to comply.* If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(D) *Salvage materials.* When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

§ 153.11 MEANS OF APPEAL

(A) *Application for appeal.* Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Board of Zoning Appeals, provided that a written application for appeal is filed within 15 days from the date of the decision, notice or order. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. Appeals heard by the Board of Zoning Appeals shall be submitted on forms provided by the City. Each application shall be accompanied by such fee as indicated in the fee schedule as approved by the City Manager.

(B) *Membership of board and organization.* The members of the Board of Zoning Appeals are appointed, serve and organized as specified in § 158.172 of the Beavercreek Zoning Code.

(C) *Notice of meeting.* The board shall meet upon notice, within 45 days of the filing of an appeal, or at stated periodic meetings.

(D) *Open hearing.* All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A majority of the members of the board shall constitute a quorum for conducting business.

(1) *Procedure.* The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(E) *Postponed hearing.* When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(F) *Board decision.* The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official. The code official shall take immediate action in accordance with the decision of the board.

(G) *Appeals to the City Council.* Any person, firm or corporation or any officer, department, board or agency of the municipality who or which has been aggrieved or affected by any decision of the Board of Zoning Appeals may appeal from such decision to the Council by filing a petition with the Clerk of Council within 15 days from the date of the decision. Such petition shall state the facts of the case. There shall be filed with the petition a separate document stating the grounds of the appeal. The Council shall hold a public hearing on such appeal not later than 30 days after such appeal has been filed with its Clerk. The Council by an affirmative vote of four of its members shall decide the matter and the Council's decision shall be final.

(H) *Stays of enforcement.* Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Board of Zoning Appeals.

§ 153.12 STOP WORK ORDER

(A) *Authority.* Whenever the code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.

(B) *Issuance.* A stop work order shall be in writing and shall be given to the owner of the property, to the owner's agent, to the person doing the work, or posted in a conspicuous place on the premises. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

(C) *Emergencies.* Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

(D) *Failure to comply.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to the penalties provided by this code.

DEFINITIONS

§ 153.20 GENERAL DEFINITIONS

Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular. Where terms are not defined in this code and are defined in the Ohio Building Code, Ohio Fire Code, International Fuel Gas Code, Ohio Mechanical Code, Ohio Plumbing Code, Ohio Residential Code, Beavercreek Zoning Code or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," "housekeeping unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. Approved by the code official.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for occupancy.

CONSTRUCTION MATERIAL. Material typically used in the construction or maintenance of properties, buildings or other structures including, but not limited to, doors, windows, concrete block, brick, lumber, shingles, gutters, cement board, tubing, conduit, fencing, downspouts, siding, cement, nails, fasteners, or similar material.

DEBRIS. The remains of something broken down or destroyed. Additionally, any used or damaged materials including, but not limited to, concrete, sand, gravel, asphalt and lumber.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

FIREWOOD. Any wood or wood product used or intended to be used as heating fuel in a residence or as a recreational fire on the property. Painted or treated wood, tree limbs, roots and other brush shall not be considered firewood.

FRONT YARD. Any open space extending the full width of the lot, the depths of which are the minimum horizontal distances between the front lot line and nearest points of the principal building.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets,

halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

JUNK or INOPERABLE VEHICLE. A vehicle shall be deemed a junk or inoperable vehicle whenever any one of the following occurs:

- (1) The vehicle is without a valid current registration and/or license plate;
- (2) The vehicle is without fully inflated tires and/or has any type of support under it;
- (3) The vehicle has a substantially damaged or missing windshield, door(s), motor, transmission, or other similar major part;
- (4) The vehicle is motorized but is incapable of being moved under its own power;
- (5) The vehicle is abandoned;
- (6) The vehicle is primarily being used for the purpose of storage;

JUNK. Scrap metal, vehicular parts, or any dismantled, partially dismantled, non-operative or discarded machinery, equipment, or part thereof. Any worn out, cast-off or discarded item, article or material which is ready for destruction or has been collected or stored for salvage or conversion to some other use. Any item of tangible personal property designed to be used in an environment protected from the elements, such as inside a building, shall be presumed junk if the item is stored outside. Such items include, but are not limited to, mattresses, furniture, appliances, electronics, power tools and clothing.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LAWN. An area planted with grass which is to be maintained and mowed at a short height.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

PREMISES. A lot, plot or parcel of land, easement or public way, including any structures thereon.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one-or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, decayed and decaying materials of all kinds of descriptions, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TARP. A piece of material, typically water-resistant or waterproof, designed for protecting exposed objects or areas. Materials may include, but not limited to, canvas, urethane coated polyester, and plastics.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

VEHICLE. Any device used for the transportation of people or goods over land, air or water surfaces, and/or licensed as a vehicle by the State of Ohio. This term includes, but is not limited to, automobile, truck, trailer, bus, camper, motorcycle, farm tractor, boat, airplane or helicopter.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure.

YARD WASTE. Leaves, grass clippings, tree limbs, brush, soil, rocks, or debris that results from landscaping, gardening, yard maintenance or land cleaning operations.

GENERAL REQUIREMENTS

§ 153.30 EXTERIOR PROPERTY AREAS

(A) *Sanitation.* All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

(B) *Grading and drainage.* All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

(C) *Sidewalks and driveways.* All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

(D) *Weeds and Plant Growth.* All premises and exterior property shall be maintained free from excessive weed or plant growth.

(1) *Grass and Weeds.* All grass and weeds shall be maintained in accordance with § 97.10 and § 97.11 of the Beavercreek Code of Ordinances.

(2) *Trees, Hedges and Shrubbery.* All Trees, hedges, shrubbery and other vegetation shall be maintained in accordance with § 97.12 of the Beavercreek Code of Ordinances.

(E) *Rodent harborage.* All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

(F) *Exhaust vents.* Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(G) *Accessory structures.* All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

(H) *Junk or inoperable vehicles in residential districts.* Except routine maintenance of personal vehicles(s) such as oil changes, cleaning, changing a flat tire, minor rust repairs, and similar activities, no person shall deposit, store, maintain, repair, collect or permit the deposit, storage, maintenance, repair or collection of junk vehicle(s) on his or her premises or on any premises under his or her control unless such vehicle is inside a completely enclosed building.

(I) *Junk or inoperable vehicles in commercial districts.* All junk and inoperable vehicles shall be located so as not to be a blighting influence to surrounding properties.

(1) *Storage.* Except as provided for in other regulations, no person, firm or corporation shall deposit, store, maintain, or collect or permit the deposit, storage, maintenance or collection of junk vehicle(s) on his or her premises or on any premises under his or her control unless such vehicle is located out of ordinary public view and view from adjoining properties by means of storage inside a completely enclosed building, by opaque screening, or by other means acceptable to the city. Vehicle covers shall not constitute a means of compliance with this requirement.

(2) *Stripping or dismantling.* No person, firm or corporation shall strip or dismantle any vehicle, unless such vehicle(s) is located out of ordinary public view and view from adjoining properties by means of being inside a completely enclosed building, by solid opaque screening, or by other means acceptable to the city.

(3) *Painting or body work.* Except as may otherwise be permitted by other codes and regulations of the city, no person, firm or corporation shall paint, or perform major vehicle repair or body work on any vehicle(s) unless such vehicle(s) is located out of ordinary public view and view from adjoining properties by means of being inside a completely enclosed building or by other means acceptable to the city. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

(4) *Screening.* Screening shall be in accordance with the following requirements:

1. Fences or walls shall be neatly constructed of opaque material and maintained to insure their opaqueness.
2. Vegetation and/or mounding shall be designed and grown to an opaque state and maintained as such.
3. Screening shall not be less than six feet in height above grade.
4. Screening shall not contain advertising.

(J) *Defacement of property.* No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving, tagging or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

(K) *Junk, yard waste and debris.* No person shall maintain, accumulate, cause to be accumulated, or allow to be accumulated junk, yard waste or debris upon any property located within the city.

(L) *Firewood.* Firewood may be stored upon residential property solely for use on the premises and not for resale. Firewood stored outdoors on a residential property shall be stored in the following manner:

1. Cut/split and prepared for use.
2. In neat, stable and secure stacks not exceeding 5 feet in height and 48 inches in width.
3. Not stored in the front yard.
4. Not in a deteriorating state.

(M) *Construction material.* The outdoor storage of construction material and furnishings is prohibited except during the active maintenance or construction process.

(N) *Equipment, Tools, Toys.* The storage of equipment, tools, toys, bicycles and other personal items in the front yard, unless otherwise allowable within this code, or other chapter of the Beavercreek Code of Ordinances, is prohibited.

(O) *Use of Tarps.* The use of tarps for roof and building repairs for more than 60 days is prohibited. The use of tarps for vehicle covers, temporary canopies, screening, enclosures, awnings, covering items, and the like, for more than 10 days is prohibited in any outdoor area, except for covers purposefully designed and manufactured to form fit a vehicle or item.

(P) *Excavations.* All open, vacant or abandoned excavations, and the like, creating an attractive nuisance, shall be properly secured so as to prevent unauthorized access until the hazard has been eliminated.

(Q) *Lawns.* On developed parcels, lawns must be established and maintained in areas surrounding structures or any area not covered by landscaping, gardens, driveways, and/or parking areas in order to prevent erosion of soil.

§ 153.31 SWIMMING POOLS, SPAS AND HOT TUBS

(A) *Swimming pools.* Swimming pools, hot tubs and spas shall be maintained in a clean and sanitary condition, and in good repair.

(B) *Enclosures.* Swimming pools, hot tubs and spas shall be enclosed by a fence, or other proper barrier, and maintained in accordance with § 158.121 of the Beavercreek Zoning Code.

§ 153.32 EXTERIOR STRUCTURE

(A) *General.* The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. Conditions determined to be unsafe shall be repaired, replaced or demolished to comply with the Ohio Building Code.

(B) *Protective treatment.* All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted.

(C) *Premises identification.* All officially assigned street address numbers shall be placed, displayed and continuously maintained in a conspicuous place or places, as required by this section, so as to be easily legible from the street to which the official number is assigned. The graphic representation of the official street address number assigned to the building, structure, or unit shall be by use of English language numbers (Arabic numerals) displayed in the correct sequence, and displayed toward the direction of the street to which that official number is assigned. The displayed number forming the official assigned building, structure, or unit number shall not be less than three inches in height.

(D) *Structural members.* All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

(E) *Foundation walls.* All foundation walls shall be maintained plumb and free from open cracks and breaks and shall

be kept in such condition so as to prevent the entry of rodents and other pests.

(F) *Exterior walls.* All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

(G) *Roofs and drainage.* The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

(H) *Decorative features.* All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(I) *Overhang extensions.* All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weathercoating materials, such as paint or similar surface treatment.

(J) *Stairways, decks, porches and balconies.* Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

(K) *Chimneys and towers.* All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(L) *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(M) *Window, skylight and door frames.* Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight. All glazing materials shall be maintained free from cracks and holes. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

(N) *Insect screens.* Every door, window and other outside opening utilized or required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

(O) *Doors.* All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with § 153.070 (C).

(P) *Basement hatchways.* Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

(Q) *Guards for basement windows.* Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

(R) *Building security.* Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

(1) *Doors.* Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

(2) *Windows.* Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.

(3) *Basement hatchways.* Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

(S) *Gates.* All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

§ 153.33 INTERIOR STRUCTURE

(A) *General.* The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property. Conditions determined to be unsafe shall be repaired, replaced or demolished to comply with the Ohio Building Code.

(B) *Structural members.* All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

(C) *Interior surfaces.* All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

(D) *Stairs and walking surfaces.* Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

(E) *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(F) *Interior doors.* Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

§ 153.34 COMPONENT SERVICEABILITY

(A) *General.* The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Conditions determined to be unsafe shall be repaired, replaced or demolished to comply with the Ohio Building Code.

§ 153.35 HANDRAILS AND GUARDRAILS

(A) *General.* Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface. Guards shall not be required where exempted by the adopted building code.

§ 153.36 RUBBISH AND GARBAGE

(A) *Accumulation of rubbish or garbage.* All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

(B) *Disposal of rubbish.* Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

(1) *Rubbish storage facilities.* The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

(2) *Refrigerators.* Until disposal, refrigerators and similar equipment shall be stored on premises in accordance with § 94.04 of the Beavercreek Code of Ordinances.

(C) *Disposal of garbage.* Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

(1) *Garbage facilities.* The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants

in each dwelling unit; or an approved leakproof, covered, outside garbage container.

(2) *Containers.* The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with closefitting covers for the storage of such materials until removed from the premises for disposal.

(D) *Roadside collection.* No residential or commercial solid waste or recycling containers, or waste materials shall be placed along a street, alley or right-of-way, on a public sidewalk, or on other public property any sooner than 24 hours before the time of collection by sanitation vehicles and shall be removed from these areas within 24 hours of the time of collection.

§ 153.37 PEST ELIMINATION

(A) *Infestation.* All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

(B) *Owner.* The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

(C) *Single occupant.* The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises.

(D) *Multiple occupancy.* The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination.

(E) *Occupant.* The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure. However, where the infestations are caused by defects in the structure, the owner shall be responsible for pest elimination.

LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

§ 153.40 LIGHT

(A) *Habitable spaces.* Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but a minimum of 25 square feet (2.33m²). The exterior glazing area shall be based on the total floor area being served.

(B) *Common halls and stairways.* Every common hall and stairway in residential occupancies, other than in one and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 foot-candle (11 lux) at floors, landings and treads.

(C) *Other spaces.* All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

(D) *Alternative devices.* In lieu of the means for natural light herein prescribed, artificial complying with the Ohio Building Code shall be permitted.

§ 153.41 VENTILATION

(A) *Habitable spaces.* Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in § 153.040 (A).

(B) *Bathrooms and toilet rooms.* Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by (A), except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

(C) *Cooking facilities.* Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit.

Exceptions:

1. Where specifically approved in writing by the code official.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

(D) *Process ventilation.* Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

(E) *Clothes dryer exhaust.* Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions, except for listed and labeled condensing (ductless) clothes dryers.

(F) *Alternative devices.* In lieu of the means for natural ventilation herein prescribed, mechanical ventilation complying with the Ohio Building Code shall be permitted.

§ 153.42 OCCUPANCY LIMITATIONS

(A) *Privacy.* Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

(B) *Minimum room widths.* A habitable room, other than a kitchen, shall be a minimum of 7 feet (2134 mm) in any

plan dimension. Kitchens shall have a minimum clear passageway of 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

(C) *Minimum ceiling heights.* Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a minimum clear ceiling height of 7 feet (2134 mm).

Exceptions:

1. In one-and two-family dwellings, beams or girders spaced a minimum of 4 feet (1219 mm) on center and projecting a maximum of 6 inches (152 mm) below the required ceiling height.
2. Basement rooms in one-and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of 6 feet 8 inches (2033 mm) with a minimum clear height of 6 feet 4 inches (1932 mm) under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet (2134 mm) over a minimum of one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet (1524 mm) shall be included.

(D) *Bedroom, dining room and living room requirements.* Every bedroom and living room shall comply with the following requirements:

- (1) *Living room area.* Every living room shall contain at least 120 square feet (11.2 m²) for dwelling units with 1-5 occupants and at least 150 square feet (13.9 m²) for dwelling units with 6 or more occupants.
- (2) *Dining room area.* Every dining room shall contain at least 80 square feet (7.4 m²) for dwelling units with 3-5 occupants and at least 100 square feet (9.3 m²) for dwelling units with 6 or more occupants. There are no minimum area requirements for dining rooms in dwelling units containing 2 or fewer occupants.
- (3) *Bedroom area.* Every bedroom shall contain a minimum of 70 square feet (6.5 m²) and every bedroom occupied by more than one person shall contain a minimum of 50 square feet (4.6 m²) of floor area for each occupant thereof.
- (4) *Access from bedrooms.* Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces, unless the units contains fewer than two bedrooms.
- (5) *Water closet accessibility.* Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.
- (6) *Prohibited occupancy.* Kitchens and nonhabitable spaces shall not be used for sleeping purposes.
- (7) *Other requirements.* Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements in §§ 153.050-153.055; the heating facilities and electrical receptacle requirements in §§ 153.060-065; and the smoke detector and emergency escape requirements in §§ 153.070-072.

(E) *Overcrowding.* Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of (D).

- (1) *Sleeping area.* The minimum occupancy area required by (D)(1) and (D)(2) shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with (D)(3).
- (2) *Combined spaces.* Combined living room and dining room spaces shall comply with the requirements of (D) if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

(F) *Efficiency unit.* Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m²). A unit occupied by not more than two occupants shall have a minimum clear floor area of 220 square feet (20.4 m²). A unit occupied by three occupants shall have a minimum clear floor area of 320 square feet (29.7 m²). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a

minimum clear working space of 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.

3. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
4. The maximum number of occupants shall be three.

(G) *Food preparation.* All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

DRAFT

PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

§ 153.50 REQUIRED PLUMBING FACILITIES

(A) *Dwelling units.* Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

(B) *Rooming houses.* At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

(C) *Hotels.* Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

(D) *Employees' facilities.* A minimum of one water closet, one lavatory and one drinking facility shall be available to employees. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

(E) *Public toilet facilities.* Public toilet facilities shall be maintained in a safe sanitary and working condition in accordance with the Ohio Plumbing Code. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

§ 153.51 TOILET ROOMS

(A) *Privacy.* Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

(B) *Location.* Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing a maximum of one flight of stairs and shall have access from a common hall or passageway.

(C) *Location of employee toilet facilities.* Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located a maximum of one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities. Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities are exempt for this requirement.

(D) *Floor surface.* In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

§ 153.52 PLUMBING SYSTEMS AND FIXTURES

(A) *General.* All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

(B) *Fixture clearances.* Plumbing fixtures shall have adequate clearances for usage and cleaning.

(C) *Plumbing system hazards.* Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

§ 153.53 WATER SYSTEM

(A) *General.* Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in

accordance with the Ohio Plumbing Code.

(B) *Contamination.* The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets, chemical dispensers and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

(C) *Supply.* The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

(D) *Water heating facilities.* Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

§ 153.54 SANITARY DRAINAGE SYSTEM

(A) *General.* All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

(B) *Maintenance.* Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

(C) *Grease interceptors.* Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. All records of maintenance, cleaning and repairs shall be available for inspection by the code official.

§ 153.55 STORM DRAINAGE

(A) *General.* Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

MECHANICAL AND ELECTRICAL REQUIREMENTS

§ 153.60 HEATING FACILITIES

(A) *Facilities required.* Heating facilities shall be provided in structures as required by this section.

(B) *Residential occupancies.* Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 65°F (18°C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

(C) *Heat supply.* Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a minimum temperature of 65°F (18°C) in all habitable rooms, bathrooms and toilet rooms.

(D) *Occupiable work spaces.* Indoor occupiable work spaces shall be supplied with heat to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied. Processing, storage and operation areas that require cooling or special temperature conditions and areas in which persons are primarily engaged in vigorous physical activities are exempt from this requirement.

(E) *Room temperature measurement.* The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

§ 153.61 MECHANICAL EQUIPMENT

(A) *Mechanical appliances.* All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

(B) *Removal of combustion products.* All fuel-burning equipment and appliances shall be connected to an approved chimney or vent, except for fuel-burning equipment and appliances which are labeled for unvented operation.

(C) *Clearances.* All required clearances to combustible materials shall be maintained.

(D) *Safety controls.* All safety controls for fuel-burning equipment shall be maintained in effective operation.

(E) *Combustion air.* A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

(F) *Energy conservation devices.* Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

§ 153.62 ELECTRICAL FACILITIES

(A) *Facilities required.* Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and § 153.063.

(B) *Service.* The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFP A 70. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

(C) *Electrical system hazards.* Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

(1) *Abatement of electrical hazards associated with water exposure.* The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

(a) *Electrical equipment.* Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the Ohio Building Code.

(b) *Exception.* The following equipment shall be allowed to be repaired where an inspection report from the

equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

1. Enclosed switches, rated a maximum of 600 volts or less;
2. Busway, rated a maximum of 600 volts;
3. Panelboards, rated a maximum of 600 volts;
4. Switchboards, rated a maximum of 600 volts;
5. Fire pump controllers, rated a maximum of 600 volts;
6. Manual and magnetic motor controllers;
7. Motor control centers;
8. Alternating current high-voltage circuit breakers;
9. Low-voltage power circuit breakers;
10. Protective relays, meters and current transformers;
11. Low-and medium-voltage switchgear;
12. liquid-filled transformers;
13. Cast-resin transformers;
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
16. Luminaires that are listed as submersible;
17. Motors;
18. Electronic control, signaling and communication equipment.

(2) *Abatement of electrical hazards associated with fire exposure.* The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

(a) *Electrical equipment.* Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the Ohio Building Code. However, electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement are exempted.

§ 153.63 ELECTRICAL EQUIPMENT

(A) *Installation.* All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

(B) *Receptacles.* Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

(C) *Luminaires.* Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric luminaire. Pool and spa luminaries over 15 V shall have ground fault circuit interrupter protection.

(D) *Wiring.* Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

§ 153.64 ELEVATORS, ESCALATORS AND DUMBWAITERS

(A) *General.* Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building operator or be posted in a publicly conspicuous location approved by the code official. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

(B) *Elevators.* In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied. Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing are exempted.

§ 153.65 DUCT SYSTEMS

(A) *General.* Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

DRAFT

FIRE SAFETY REQUIREMENT

§ 153.70 MEANS OF EGRESS

(A) *General.* A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the Ohio Fire Code.

(B) *Aisles.* The required width of aisles in accordance with the Ohio Fire Code shall be unobstructed.

(C) *Locked doors.* All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the Ohio Building Code.

(D) *Emergency escape openings.* Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

§ 153.71 FIRE-RESISTANCE RATINGS

(A) *Fire-resistance-rated assemblies.* The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

(B) *Opening protectives.* Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

§ 153.72 FIRE PROTECTION SYSTEMS

(A) *General.* All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the Ohio Fire Code.

(1) *Automatic sprinkler systems.* Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

(B) *Smoke alarms.* Single-or multiple-station smoke alarms shall be installed and maintained in Group R or I-1 occupancies, regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

(C) *Power source.* In Group R or I-1 occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

(D) *Interconnection.* Where more than one smoke alarm is required to be installed within an individual dwelling unit in Group R or I-1 occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be

required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions:

1. Interconnection is not required in buildings which are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

DRAFT

Rescind Sections 158.122 & 158.123

§ 158.122 JUNK OR INOPERABLE VEHICLES IN RESIDENTIAL DISTRICTS.

(A) General prohibition. Except as expressly provided by law, no person shall deposit, store, maintain, collect or permit the deposit, storage, maintenance or collection of junk vehicle(s) on his or her premises or on any premises under his or her control unless such vehicle is stored out of ordinary public view by means of storage inside a completely enclosed building. A junk vehicle which is covered by a vehicle cover specifically designed to cover the vehicle(s) and parked under a covered carport is sufficiently screened for the purposes of this provision. See § 158.003 for definition of JUNK OR INOPERABLE VEHICLE.

(B) Exceptions to general prohibitions.

(1) Businesses regulated by the provisions of § 158.123 (B) are exempt from this section.

(2) Routine maintenance of vehicle(s), such as oil changes, cleaning, changing a flat tire, minor rust repairs, and similar activities.

(C) Nothing within this section shall be construed as impairing the city's right to take appropriate action under any provision in R.C. Chapter 4513.

§ 158.123 JUNK VEHICLES IN COMMERCIAL DISTRICTS.

(A) General prohibitions.

(1) No person, firm or corporation shall deposit, store, maintain, or collect or permit the deposit, storage, maintenance or collection of any junk vehicle(s) on his or her premises or on any premises under his or her control, or in any other place within the city, unless such vehicle(s) is located out of ordinary public view by means of storage inside a completely enclosed building, by solid opaque screening, or by other means acceptable to the city. Vehicle covers shall not constitute a means of compliance with this requirement.

(2) No person, firm or corporation shall park, store, keep or have outdoors on any property any vehicle(s) in the state of major disrepair, or in the process of being stripped or dismantled, unless such vehicle(s) is located out of ordinary public view by means of storage inside a completely enclosed building, by solid opaque screening, or by means acceptable to the city. Vehicle covers shall not constitute a means of compliance with this requirement.

(3) Except as may otherwise be permitted by other codes and regulations of the city, no person shall paint, or perform major vehicle repair or body work on any vehicle(s) unless such vehicle(s) is located out of ordinary public view, by means of storage inside a completely enclosed building, by solid opaque screening, or by other means acceptable to the city. Vehicle covers shall not constitute a means of compliance with this requirement.

(B) Exceptions. The provisions of this section shall not apply to:

(1) Authorized automotive paint and body shops, junk yards, and scrap metal processing facilities. Authorized automotive paint and body shops, junk yards and scrap metal processing facilities and automobile repair facilities shall be exempted from the requirements of this section insofar as vehicle(s), which would violate this section, are completely screened from public streets and adjoining property. Such screening shall consist of mounding, fence, wall and/or vegetation. Any screening shall be in accordance with the following requirements:

(a) Fences or walls shall be neatly constructed of opaque material and maintained to insure their opaqueness.

(b) Vegetation and/or mounding shall be designed and grown to an opaque state and maintained as such.

(c) Screening shall not be less than six feet in height above grade.

(d) Screening shall be maintained in a condition so as to insure its opaqueness.

(e) Screening shall not contain advertising.

(2) A business or businesses lawfully operating as auto repair stations, and similar businesses lawfully operating when the condition of a vehicle(s), which would otherwise constitute a violation of this section, is in the process of being remedied or will be remedied within a reasonable period of time not to exceed ten days.

(C) Rights reserved. Nothing within this section shall be construed as impairing the city's right to take appropriate action under any provision in R.C. Chapter 4513.

ORDINANCE NO. 15-04

CITY OF BEAVERCREEK

SPONSORED BY COUNCIL MEMBER UPTON ON THE 23RD DAY OF MARCH, 2015.

AN ORDINANCE ADOPTING AN AMENDMENT TO ORDINANCE #07-25
AND AS LEGISLATIVELY AMENDED, TO AMEND THE CITY OF
BEAVERCREEK LAND USE PLAN (PC-15-2).

WHEREAS, THE City of Beavercreek Planning Commission has recommended approval of this Land Use Plan Amendment; and

WHEREAS, public hearing was held on March 23, 2015; and

WHEREAS, the City Council voted to amend the Land Use Plan Map.

NOW THEREFORE THE MUNICIPALITY OF BEAVERCREEK HEREBY
ORDAINS:

SECTION I

The Land Use Map shall be amended by modifications to the 5.01 acres of land located at 2200 Dayton-Xenia Road from a previously unclassified portion of Beavercreek Township to Neighborhood/Community Commercial/Office as depicted in Attachment A.

SECTION II

This Ordinance shall take effect from and after the earliest period allowed by law.

SECTION III

It is hereby found and determined that all formal actions of this Council concerning and relating to adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including, but not limited to, Section 121.22 of the Ohio Revised Code.

ADOPTED by the Council of the City of Beavercreek, Ohio this ____ day of _____, 2015.

Agenda Item IV. A.
Second Reading

Brian Jarvis, Mayor

ATTEST:

Dianne Lampton, Clerk of Council

Agenda Item VII. B.
Second Reading

ORDINANCE NO. 15-05

CITY OF BEAVERCREEK

SPONSORED BY COUNCIL MEMBER LITTERAL ON THE 23RD DAY OF MARCH, 2015.

AN ORDINANCE AMENDING THE ZONING MAP, BY REZONING APPROXIMATELY 5.01 ACRES OF LAND LOCATED ON THE NORTH SIDE OF DAYTON-XENIA ROAD APPROXIMATELY 600 FEET WEST OF THE INTERSECTION OF ORCHARD LANE AND DAYTON-XENIA ROAD FURTHER DESCRIBED AS B03000200330021200 FROM TOWNSHIP ZONING TO I-1 LIGHT INDUSTRIAL DISTRICT (Z-15-1).

Whereas, the City of Beavercreek, on behalf of Frank Rine, has filed an application requesting approval of an amendment of zoning classification; and

Whereas, the City of Beavercreek Planning Commission has recommended approval of the rezoning amendment; and

WHEREAS, the City Council has voted to adopt the recommendation of the Planning Commission, this being a decision that requires approval by four members of Council.

NOW THEREFORE THE MUNICIPALITY OF BEAVERCREEK HEREBY ORDAINS:

SECTION I

That the Zoning Map referenced in §158.018 of the Zoning Code is hereby further amended to change approximately 5.01 acres of land, located on the north side of Dayton-Xenia Road approximately 600 feet west of the intersection of Orchard Lane and Dayton-Xenia Road, known as B03000200330021200 and as further described in the attached "Exhibit A" be rezoned to I-1 Light Industrial District.

SECTION II

This Ordinance shall take effect from and after the earliest period allowed by law.

Agenda Item VII. B.
Second Reading
SECTION III

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

PASSED this _____ day of _____, 2015.

Brian Jarvis, Mayor

ATTEST:

Dianne Lampton, Clerk of Council

SUMMARY

This Ordinance adopts a recommendation to rezone approximately 5.01 acres of land located on the north side of Dayton-Xenia Road approximately 600 feet west of the intersection of Orchard Lane and Dayton-Xenia Road from Beavercreek Township zoning to I-1 Light Industrial District.

This is not an emergency ordinance and will become effective 30 days after passage.

ORDINANCE NO. 15-06

CITY OF BEAVERCREEK

SPONSORED BY COUNCIL MEMBER LITTERAL ON THE 23RD DAY OF
MARCH, 2015

AN ORDINANCE ACCEPTING ANNEXATION ON
APPLICATION OF OWNERS OF 118.403 ACRES PLUS OR
MINUS OF LAND IN BEAVERCREEK TOWNSHIP, OHIO.

NOW, THEREFORE, THE CITY OF BEAVERCREEK HEREBY
ORDAINS:

SECTION 1: Frank and Rebekkah Rine (collectively, "Petitioners"), filed with the Board of Commissioners of Greene County, Ohio, a petition to annex to the City of Beavercreek, Ohio, 118.403 plus or minus acres of land, in Beavercreek Township Ohio (the "Territory"). Said petition was filed with the consent of all parties pursuant to Ohio Revised Code Section 709.023.

SECTION 2: The Board of County Commissioners did, by Resolution No. 15-1-6-6, adopted January 6, 2015, approve the annexation of the proposed territory to the City of Beavercreek as hereinafter described. Board of County Commissioners Resolution 15-1-6-6 is attached hereto as Exhibit "A". Such approval was subject to the terms and conditions contained in the Annexation Agreement, provided for by Ohio Revised Code Section 709.192.

SECTION 3: The Board of County Commissioners did, through the Clerk of the Board of County Commissioners, Greene County, Ohio, certify a transcript of the proceedings in connection with the map and petition required herein to the Clerk of the Beavercreek City Council who received the same on the 9th day of January, 2015.

SECTION 4: Sixty (60) days from the date of the filing have now elapsed in accordance with the provisions of Ohio Revised Code 709.04.

SECTION 5: The proposed annexation, as applied for in the petition of Frank and Rebekkah Rine, being the petitioners and owners of the real estate in the territory sought to be annexed and filed with the Board of County Commissioners, Greene County, Ohio, in which the petition prayed for annexation to the City of Beavercreek, Ohio, of certain territory adjacent thereto as hereinafter described, and which petition was approved for annexation to the City of Beavercreek, Ohio, by the Board of County Commissioners on January 6, 2015, be and the same is hereby accepted and deemed annexed to the City of Beavercreek, subject to all the terms and

Agenda Item VII. C.
Second Reading

conditions provided herein and contained within the Annexation Agreement. The territory to be annexed is more particularly described in Exhibit "B", attached hereto and incorporated herein.

SECTION 6: A certified transcript of the proceedings for annexation with an accurate map of the territory, together with the petition for annexation and the papers relating to all proceedings heretofore with the County Commissioners, are all on file with the Clerk of the City of Beavercreek, and have been for more than sixty (60) days.

SECTION 7: The Clerk of the City of Beavercreek be and is hereby authorized and directed to make three copies of this Ordinance, to each of which shall be attached a copy of the map accompanying this petition for annexation, a copy of the transcript of proceedings of the Board of County Commissioners of Greene County, Ohio, related thereto, and certified as to the correctness thereof. The Clerk shall then forthwith deliver one copy to the County Auditor, one copy to the County Recorder and one copy to the Secretary of State and shall file notice of this annexation with the Board of Elections within thirty (30) days after it becomes effective and the Clerk shall do all other things as required by law.

SECTION 8: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

SECTION 9: This Ordinance shall take effect at the earliest time allowed by law.

PASSED this _____ day of April, 2015.

Brian Jarvis, Mayor

ATTEST:

CLERK OF BEAVERCREEK COUNCIL

Agenda Item VII. C.
Second Reading

PREPARED BY: CITY ATTORNEY

SUMMARY

THIS ORDINANCE ACCEPTS ANNEXATION ON APPLICATION OF OWNERS OF 118.403 ACRES PLUS OR MINUS OF LAND IN BEAVERCREEK TOWNSHIP, OHIO.

THIS IS NOT AN EMERGENCY ORDINANCE AND WILL BECOME EFFECTIVE 30 DAYS AFTER PASSAGE.

CITY OF BEAVERCREEK
CITY COUNCIL
AGENDA ITEM REPORT

MAC 4/9/15

Meeting Date: April 13, 2015	Reference Topic: Request for New Liquor Permit Vandalia Coffee LLC DBA Winans Chocolates and Coffees
Agenda Reference No: VIII. A.	

ACTION REQUESTED		
<input type="checkbox"/> Adopt Ordinance	<input type="checkbox"/> Adopt Resolution	<input type="checkbox"/> Review and Comment
<input type="checkbox"/> No Action Requested	<input checked="" type="checkbox"/> Accept Staff Recommendation	<input type="checkbox"/> Other _____

RESPONSIBLE DEPARTMENT OR AGENCY		
<input type="checkbox"/> Finance	<input type="checkbox"/> City Council	<input type="checkbox"/> Law
<input type="checkbox"/> Parks & Recreation	<input type="checkbox"/> Engineering	<input type="checkbox"/> Planning & Zoning
<input checked="" type="checkbox"/> Police	<input type="checkbox"/> Public Service	<input type="checkbox"/> City Manager
<input type="checkbox"/> Clerk of Council	<input type="checkbox"/> Human Resources	<input type="checkbox"/> Other _____

BACKGROUND AND STAFF SUMMARY:

Ohio Division of Liquor Control sent police notification reference a new D1 liquor permit for Vandalia Coffee LLC., DBA Winans Chocolates and Coffees located at 3510 Pentagon Blvd; Suite C Beavercreek, Ohio 454431. The records checks required by the Ohio Department of Commerce - Division of Liquor Control were conducted on the business officer/shareholder, Ben Czajka for this application.

STAFF RECOMMENDATION:

Staff is recommending this application request move forward with no comment.

NOTICE TO LEGISLATIVE
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL
6606 TUSSING ROAD, P.D. BOX 4005
REYNOLDSBURG, OHIO 43068-9005
(614)644-2360 FAX(614)644-3166

TO

92046720010		N		VANDALIA COFFEE LLC DBA WINANS CHOCOLATES AND COFFEES 3510 PENTAGON BLVD SUITE C BEAVERCREEK OH 45431
PERMIT NUMBER		TYPE		
ISSUE DATE				
04 03 2013				
FILING DATE				
D1				
PERMIT CLASSES				
29	005	A	A04218	
TAX DISTRICT		RECEIPT NO.		

FROM 03/18/2015

PERMIT NUMBER		TYPE	
ISSUE DATE			
FILING DATE			
PERMIT CLASSES			
TAX DISTRICT		RECEIPT NO.	



MAILED 03/18/2015

RESPONSES MUST BE POSTMARKED NO LATER THAN. 04/20/2015

IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES **A N 9204672-0010**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT
THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title) - ☐ Clerk of County Commissioner

(Date)

☐ Clerk of City Council

☐ Township Fiscal Officer

CLERK OF BEAVERCREEK CITY COUNCIL
1368 RESEARCH PARK DR
BEAVERCREEK OHIO 45432

D8 \$500 ORC 4303.184 Sale of tasting samples of beer, wine, and mixed beverages, but not spirituous liquor, at retail, for consumption on premises.

Restaurant / Night Club

Permit Class	Permit Fee	Description
 D1	\$376	<u>ORC 4303.13</u> Beer only for on premises consumption or in original sealed containers for carry out only until 1:00am.
D2	\$564	<u>ORC 4303.14</u> Wine and mixed beverages for on premises consumption or in original sealed containers for carryout only until 1:00am.
D2X	\$376	<u>ORC 4303.141</u> (Grandfathered Permit) Beer only for on premises consumption or in original sealed containers for carryout only until 1:00am.
D3	\$750	<u>ORC 4303.15</u> Spirituous liquor for on premises consumption only until 1:00am.
D3X	\$300	<u>ORC 4303.151</u> (Grandfathered Permit) Wine only for on premises consumption or in original sealed containers for carryout only until 1:00am.
D3A	\$938	<u>ORC 4303.16</u> Extend issued permit privileges until 2:30am.
D5	\$2,344	<u>ORC 4303.18</u> Spirituous liquor for on premises consumption only, beer, wine and mixed beverages for on premises, or off premises in original sealed containers, until 2:30am.
D5I	\$2,344	<u>ORC 4303.181</u> (Same as D5). Restaurant meeting certain criteria.
D7	\$469	<u>ORC 4303.183</u> (Same as D5). RESORT area only.

Club

Permit Class	Permit Fee	Description
D4	\$469	<u>ORC 4303.17</u> Beer and any intoxicating liquor to members only, for on premises consumption only until 1:00am.
D4A	\$750	<u>ORC 4303.171</u> Airline club only - Beer and any intoxicating to members and guests until 2:00am.
D5C	\$1,563	<u>ORC 4303.181</u> (Same as D5.)(This class can no longer be applied for.)
D5D	\$2,344	<u>ORC 4303.181</u> (Same as D5) located at airport.

Hotel And Motel

Permit Class	Permit Fee	Description
D5A	\$2,344	<u>ORC 4303.181</u> (Same as D5) for hotel or motel with 50 or more rooms for transient guests.

Enclosed Shopping Mall



MEMORANDUM

To: City Council

From: Michael A. Cornell, City Manager

A handwritten signature in dark ink, appearing to read "MAC", is written over the "From:" line.

Date: April 8, 2015

Re: Appointment of Michael Thonnerieux as Public Administrative Services Director

Since the departure of David Beach in June 2013, Michael Thonnerieux has been performing the duties as Interim Public Administrative Services Director (PASD), providing direction for services relating to Engineering, Streets and Drainage, Grounds Maintenance, Parks, Cemetery, Golf Course, and Fleet/Building Services. He has been responsible for development projects and the oversight of all public infrastructure improvements. In addition, he was significantly involved with the planning, promotion and implementation of multiple successful levies – including Parks and Streets. He was an active participant in the negotiation of a 3-year CWA contract (2015-2017), and his participation with Greene County and Beavercreek Township on Parks and Solid Waste issues created notable respect from those agencies.

In August/September of 2013, an intense executive search was conducted to permanently fill the PASD position. Individuals representing different segments of our community participated in the interview process; however no selection occurred at that time due to significant budget limitations anticipated in 2014. Council member Melissa Litteral participated in this interview process which also included representatives from the Beavercreek Chamber of Commerce, Communication Workers of America, City of Kettering and Synergy Building Systems. Mr. Thonnerieux was a strong candidate during that process and ranked high in comparison to the other candidates.

Now I believe it is time to solidify the appointment of the new PASD. Mr. Thonnerieux has excelled in his duties and displayed leadership qualities as Interim PASD, and it is with great confidence that I recommend Mr. Thonnerieux to the position of Public Administrative Services Director.



**AGENDA
CITY COUNCIL
Work Session –April 20, 2015, 5:00 p.m.
Council Chambers**

*1368 Research Park Dr
Beavercreek, Ohio*

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. DISCUSSION ITEMS
 - A. Environmental Services (Dana Storts, Manager, Greene County?)
 - B. Direct Election of Mayor
 - C. Golf Course Five Year Plan
 - D. Ditch Erosion Issue
 - E. U.S. 35 Interchanges Update
 - F. Online Checkbook
- V. COUNCIL COMMITTEE/EVENT UPDATES
- VI. ADJOURNMENT

DRAFT



CITY COUNCIL
Regular Meeting – April 27, 2015 6:00 p.m.
Council Chambers

1368 Research Park Dr
Beavercreek, Ohio

PROCLAMATIONS

- ◆ Older Americans' Month

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE AND MOMENT OF SILENCE – Vice Mayor Wallace
- IV. APPROVAL OF AGENDA
- V. APPROVAL OF MINUTES
- VI. PUBLIC HEARING – Z 15-2 Nicely Rezoning
 - A. Applicant Presentation
 - B. Staff Presentation
 - C. Public Input
 - D. Council Input
 - E. Ordinance 15-09 (First Reading)
- VII. PUBLIC HEARING – PUD 15-2 First & Main Rezoning & Concept
 - A. Applicant Presentation
 - B. Staff Presentation
 - C. Public Input
 - D. Council Input
 - E. Ordinance 15-10 (First Reading)
- VIII. PUBLIC HEARING – PUD 91-2 Amendment 3/15 Stone Falls II
 - A. Applicant Presentation
 - B. Staff Presentation
 - C. Public Input
 - D. Council Input
 - E. Ordinance 15-11 (First Reading)
- IX. ORDINANCES, RESOLUTIONS AND PUDS
 - A. Ordinance 15-06 Acceptance of Annexation (Third Reading)
 - B. Ordinance 15-08 Property Maintenance Code Updates (Second Reading)
 - C. Ordinance 15-04 PC 15-2 Rine Land Use Plan (Third Reading)
 - D. Ordinance 15-05 Z 15-1 Rine Rezoning (Third Reading)
- X. CITY MANAGER'S REPORT
- XI. MAYOR'S REPORT
- XII. COUNCIL TIME
- XIII. CITIZEN COMMENTS
- XIV. ADJOURNMENT

PLANNING DEPARTMENT STATUS REPORT

April 9, 2015

CITY COUNCIL

April 13, 2015

- PC 15-4 Property Maintenance Issues Update, public hearing, first reading
- PC 15-2, Land Use Plan Amendment (Rine), public hearing, second reading
- Z-15-1, Rine rezoning, public hearing, second reading

April 27, 2015

- PUD 91-2 Amendment 3/155, Stone Falls II, public hearing, first reading
- PUD 15-2 First & Main, public hearing, first reading
- Z-15-2, 1888 Woods Drive, public hearing, first reading
- PC 15-4 Property Maintenance Issues Update, public hearing, second reading
- PC 15-2, Land Use Plan Amendment (Rine), third reading
- Z-15-1, Rine rezoning, third reading

Tabled / Delayed / Pending

-
-

PLANNING COMMISSION

May 5, 2015

-
-

Currently Tabled / Delayed

- PUD 92-1 Major MOD, Sam's Fueling Station, tabled 3/4/15 and public hearing continued
- PUD 97-3 Major MOD, Home 2 Suites, tabled 4/1/15 and public hearing continued
-

Commercial Permits Submitted and Under Review

- Traditions/Leo Brown
- Chuy's
- Mt. St. John
- Grismer
- IHOP
- Meijer

BOARD OF ZONING APPEALS

May 13, 2015

- V-15-3, 510 Rustic Trail
-

Currently Tabled or Delayed

-
-